

## CHAPTER 752. CRIMES AND OFFENSES

### INTERSTATE LAW ENFORCEMENT INTELLIGENCE ORGANIZATIONS

#### Act 201 of 1980

AN ACT to regulate the maintenance and supplying of information by a law enforcement agency to an interstate law enforcement intelligence organization; to regulate membership by a law enforcement agency in interstate law enforcement intelligence organizations; and to prescribe penalties.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980.

*The People of the State of Michigan enact:*

#### 752.1 Definitions.

Sec. 1. As used in this act:

(a) "File" means all information about an individual recorded and retained by a law enforcement intelligence organization regardless of how the information is stored.

(b) "Freedom of information act" means an act which provides that members of the public have a right to inspect and copy certain records of governmental agencies, which for this state is Act No. 442 of the Public Acts of 1976, as amended, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(c) "Individual" means a natural person or a parent or guardian of a natural person who is less than 18 years of age, unless the person who is less than 18 years of age indicates otherwise.

(d) "Interstate law enforcement intelligence organization" means any intelligence gathering organization whose purpose is to promote the gathering, recording, and interstate exchange of confidential information not available through regular police channels and which provides a central clearinghouse for information dissemination to its membership. Interstate law enforcement intelligence organization includes, but is not limited to, the intelligence gathering organization registered as a charitable trust in the state of California with its principal offices located in Sacramento, California.

(e) "Law enforcement agency" means a state or local police department, a sheriff's department, a county prosecutor's office, the department of attorney general, or any other department or agency which enforces the laws of this state or the ordinances of a county, township, city, or village.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980.

#### 752.2 Supplying information to or maintaining files supplied by interstate law enforcement intelligence organization; conditions.

Sec. 2. A law enforcement agency may not supply information to or maintain files supplied by an interstate law enforcement intelligence organization unless 1 of the following conditions is met:

(a) The organization is the El Paso intelligence center.

(b) The interstate law enforcement intelligence organization is established by an act of congress.

(c) The interstate law enforcement intelligence organization is established within a federal investigative agency and membership is with the concurrence of the governor of this state.

(d) The interstate law enforcement intelligence organization is created by an act of the legislature in the state where the organization is located and by the legislature of this state.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980.

#### 752.3 Maintaining membership, supplying information to, or maintaining files supplied by interstate law enforcement intelligence organization; conditions; exceptions; effective date of section.

Sec. 3. (1) Except as provided in section 2, a law enforcement agency shall not maintain membership, supply information to, or maintain files supplied by an interstate law enforcement intelligence organization unless all of the following conditions are met by the interstate law enforcement intelligence organization:

(a) The organization is governed by a citizen oversight body which has the authority to periodically review the files maintained by the organization.

(b) The files maintained by an organization are relevant to a criminal investigation or pertinent to and within the scope of an authorized law enforcement activity.

(c) The organization does not maintain a record describing how an individual exercises rights guaranteed by the first amendment of the constitution of the United States.

(d) The organization has established guidelines which provide for the review of files at regular intervals to insure the accuracy and legality of the file information.

(e) The organization has established guidelines which provide for the destruction of outdated or inaccurate information.

(f) The organization permits its files located in a state with a freedom of information act to be accessible to the public in accordance with that act.

(2) This section shall take effect July 1, 1983.

**History:** 1980, Act 201, Eff. July 1, 1983.

#### **752.4 Notice of membership.**

Sec. 4. A law enforcement agency which is a member of an interstate law enforcement intelligence organization shall notify the legislature and the governor of its membership not later than February 1 of each year.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980.

**Compiler's note:** Former MCL 752.4 to 752.6, deriving from Act 254 of 1881 and pertaining to adulteration of food, drink, or medicine, were repealed by Act 39 of 1968.

#### **752.5 Exchange of information through regular police channels.**

Sec. 5. This act shall not be construed to prohibit the exchange of information through regular police channels between a law enforcement agency in this state and a law enforcement agency in another state, the District of Columbia, or the federal government.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980.

**Compiler's note:** Former MCL 752.4 to 752.6, deriving from Act 254 of 1881 and pertaining to adulteration of food, drink, or medicine, were repealed by Act 39 of 1968.

#### **752.6 Violation as misdemeanor.**

Sec. 6. A person who knowingly violates this act is guilty of a misdemeanor.

**History:** 1980, Act 201, Imd. Eff. July 18, 1980.

**Compiler's note:** Former MCL 752.4 to 752.6, deriving from Act 254 of 1881 and pertaining to adulteration of food, drink, or medicine, were repealed by Act 39 of 1968.

**LAW ENFORCEMENT**  
**Act 158 of 1966**

AN ACT to require public officials to enforce the legal rights of citizens and to provide a penalty for failure to do so.

**History:** 1966, Act 158, Eff. Mar. 10, 1967.

*The People of the State of Michigan enact:*

**752.11 Upholding or enforcing the law; duty of public officials.**

Sec. 1. Any public official, appointed or elected, who is responsible for enforcing or upholding any law of this state and who wilfully and knowingly fails to uphold or enforce the law with the result that any person's legal rights are denied is guilty of a misdemeanor.

**History:** 1966, Act 158, Eff. Mar. 10, 1967.

**752.12 Penalty.**

Sec. 2. Any person convicted of violating this act shall be punished by a fine of not more than \$1,000.00 or imprisonment for not more than 1 year, or both.

**History:** 1966, Act 158, Eff. Mar. 10, 1967.

**CRUELTY TO ANIMALS**  
**Act 70 of 1877**

**752.21-752.30 Repealed. 1994, Act 126, Eff. Mar. 30, 1995.**

## USE OF TRAVEL AIDS BY BLIND PERSONS Act 10 of 1937

AN ACT to define the use of travel aids by blind persons; to provide protection against accidents to such persons; to require instruction and examination in certain circumstances; and to provide penalties for violation hereof.

**History:** 1937, Act 10, Imd. Eff. Apr. 16, 1937;—Am. 1986, Act 62, Eff. Jan. 1, 1987.

*The People of the State of Michigan enact:*

### **752.51 Repealed. 1986, Act 62, Eff. Jan. 1, 1987.**

**Compiler's note:** The repealed section pertained to color of canes used by blind persons.

#### **752.51a Definitions.**

Sec. 1a. As used in this act:

(a) "Blind" means a person who has a visual acuity of 20/200 or less in the better eye with correction, or has limitation of his or her field of vision such that the widest diameter of the visual field subtends an angular distance not greater than 20 degrees.

(b) "Cane" means an aid used by a blind pedestrian for travel and identification purposes that is white in color with or without a red tip.

(c) "Crosswalk" means that term as defined in section 10 of the Michigan vehicle code, 1949 PA 300, MCL 257.10.

(d) "Dog guide" means a dog, in harness, that has been formally trained and that is used by a blind person as a travel aid.

(e) "Walker" means an aid used by a blind pedestrian for travel and identification purposes that is white in color or has white legs with or without a red tip.

**History:** Add. 1986, Act 62, Eff. Jan. 1, 1987;—Am. 2002, Act 401, Imd. Eff. June 3, 2002.

### **752.52 Blind pedestrian carrying cane or using dog guide or walker; duty of driver; liability; failure to carry cane or use dog guide or walker; investigation of alleged violation; review of investigative report; informing blind pedestrian of decision.**

Sec. 2. (1) A driver of a vehicle shall not approach a crosswalk or any other pedestrian crossing without taking all necessary precautions to avoid accident or injury to a blind pedestrian carrying a cane or using a dog guide or walker.

(2) A driver who approaches a crosswalk or any other pedestrian crossing without taking all necessary precautions to avoid accident or injury to a blind pedestrian carrying a cane or using a dog guide or walker is liable in damages for any injuries caused the blind pedestrian. A blind pedestrian who does not carry a cane or use a dog guide or walker has all of the rights and privileges conferred upon any other pedestrian by the laws of this state. The failure of a blind pedestrian to carry a cane or use a dog guide or walker shall not be treated as evidence of negligence in a civil action for injury to the blind pedestrian or for the blind pedestrian's wrongful death.

(3) If a person alleges to a peace officer a violation of subsection (1), the peace officer shall investigate the alleged violation. The prosecuting attorney shall review the peace officer's investigative report to determine whether a violation of subsection (1) has occurred and whether to issue charges. Upon the request of the blind pedestrian and after reviewing the investigative report, a prosecuting attorney shall inform the blind pedestrian of his or her decision and the reason or reasons supporting that decision.

**History:** 1937, Act 10, Imd. Eff. Apr. 16, 1937;—CL 1948, 752.52;—Am. 1952, Act 249, Eff. Sept. 18, 1952;—Am. 1986, Act 62, Eff. Jan. 1, 1987;—Am. 2002, Act 401, Imd. Eff. June 3, 2002.

### **752.53 Violation as misdemeanor; penalty.**

Sec. 3. A person who violates section 2(1) is guilty of a misdemeanor, punishable by imprisonment for not more than 90 days, or by a fine of not more than \$100.00, or both.

**History:** 1937, Act 10, Imd. Eff. Apr. 16, 1937;—CL 1948, 752.53;—Am. 1986, Act 62, Eff. Jan. 1, 1987.

### **752.54 Instruction or examination on requirements of act.**

Sec. 4. If a person elects or is required to take instruction for the purpose of driving motor vehicles or for the preparation of an examination given by the department of state for a license to operate a motor vehicle, or is required to take an examination given by the department of state, the person shall be instructed or examined

on the requirements of this act.

**History:** Add. 1986, Act 62, Eff. Jan. 1, 1987.

## **COLLARS, HARNESES, AND LEASHES ON DOGS IN PUBLIC PLACES**

### **Act 82 of 1981**

AN ACT to prohibit the use of certain collars or harnesses and leashes on dogs in public places, except by deaf, audibly impaired, or otherwise physically limited persons; and to prescribe penalties.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981;—Am. 1984, Act 111, Imd. Eff. May 24, 1984.

*The People of the State of Michigan enact:*

#### **752.61 Definitions.**

Sec. 1. As used in this act:

(a) “Audibly impaired” means the inability to hear air conduction thresholds at an average of 40 decibels or greater in the better ear.

(b) “Deaf person” means a person whose hearing is totally impaired or whose hearing, with or without amplification, is so seriously impaired that the primary means of receiving spoken language is through other sensory input, including but not limited to, lip reading, sign language, finger spelling, or reading.

(c) “Physically limited” means physically limited as defined in section 1 of Act No. 1 of the Public Acts of 1966, being section 125.1351 of the Michigan Compiled Laws.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981;—Am. 1984, Act 111, Imd. Eff. May 24, 1984.

#### **752.62 Use or possession of dog wearing blaze orange leash and collar or harness in public place.**

Sec. 2. A person, except a person who is deaf, audibly impaired, or otherwise physically limited shall not use or be in possession of a dog that is wearing a blaze orange leash and collar or harness in any public place.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981;—Am. 1984, Act 111, Imd. Eff. May 24, 1984.

#### **752.63 Violation as misdemeanor; penalty.**

Sec. 3. A person who knowingly violates this act is guilty of a misdemeanor, punishable by a fine of not more than \$10.00.

**History:** 1981, Act 82, Imd. Eff. July 1, 1981.

## **REVISED STATUTES OF 1846**

### **CHAPTER 158-Continued**

#### **Chapter 158. Of Offences Against Chastity, Morality and Decency**

#### **752.73 Unauthorized construction of way through cemetery.**

Sec. 23. If any person shall open or make any highway, or shall construct any railroad, turnpike or canal, or any other thing in the nature of a public easement, over, through, in or upon, such part of any enclosure, being the property of a township, city, religious society, or of any other body corporate, or of private proprietors, as may be used or appropriated for the burial of the dead, unless an authority for that purpose shall be specially granted by law, or unless the consent of such township, city, religious society, body corporate or proprietors respectively, shall be first obtained, he shall be punished by fine not exceeding 2,000 dollars, or imprisonment in the county jail not more than 1 year.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5878;—CL 1871, 7713;—How. 9299;—CL 1897, 11712;—CL 1915, 15486;—CL 1929, 16838;—CL 1948, 752.73.

**SALE OF BABY CHICKS, RABBITS, DUCKLINGS, OR OTHER FOWL OR GAME**  
**Act 163 of 1945**

AN ACT prohibiting the sale or offer for sale of dyed or artificially colored baby chicks, rabbits, ducklings, or other fowl or game; and providing a penalty for violation thereof.

**History:** 1945, Act 163, Imd. Eff. May 16, 1945.

*The People of the State of Michigan enact:*

**752.91 Sale of artificially colored baby chicks, rabbits or ducklings; unlawful.**

Sec. 1. It shall be unlawful for any person, firm or corporation to sell, or offer for sale, any baby chicks, rabbits, ducklings, or other fowl or game which have been dyed or otherwise artificially colored.

**History:** 1945, Act 163, Imd. Eff. May 16, 1945;—CL 1948, 752.91.

**752.92 Violation a misdemeanor.**

Sec. 2. Any person, firm or corporation violating any of the provisions of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished as provided by the laws of this state.

**History:** 1945, Act 163, Imd. Eff. May 16, 1945;—CL 1948, 752.92.

**SAFETY DEVICES ON CORN HUSKERS**  
**Act 124 of 1907**

AN ACT requiring corn huskers to be protected by an automatic feeder or other safety device, and making the sale or use thereof, unless so protected, a misdemeanor.

**History:** 1907, Act 124, Eff. Sept. 28, 1907.

*The People of the State of Michigan enact:*

**752.101 Corn husker with unprotected feeder; unlawful sale.**

Sec. 1. Hereafter it shall be unlawful for any person, partnership, association or corporation, or for any officer or agent thereof, to sell or offer for sale, or to use within the state of Michigan, the machine commonly known as a corn husker, unless the same is safeguarded by an automatic feeder or other safety device, that shall compel the person, or persons, feeding said machine, to stand at a reasonably safe distance from the snapping rollers, and designed effectually to protect the person or persons operating the same from bodily injury while engaged in such operation.

**History:** 1907, Act 124, Eff. Sept. 28, 1907;—CL 1915, 15268;—CL 1929, 16807;—CL 1948, 752.101.

**752.102 Penalty.**

Sec. 2. Any person, partnership, association or corporation, or officer or agent thereof, who shall be found guilty of a violation of the provisions of section 1 of this act, shall be deemed guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine not exceeding 100 dollars, or imprisonment not exceeding 90 days, or by both such fine and imprisonment, in the discretion of the court.

**History:** 1907, Act 124, Eff. Sept. 28, 1907;—CL 1915, 15269;—CL 1929, 16808;—CL 1948, 752.102.



**REBUILT ELECTRIC STORAGE BATTERIES**  
**Act 217 of 1933**

AN ACT to prevent fraud and deception in the sale and offering for sale of rebuilt electric storage batteries, and to provide a penalty for the violation thereof.

**History:** 1933, Act 217, Eff. Oct. 17, 1933.

*The People of the State of Michigan enact:*

**752.131 Rebuilt electric storage batteries.**

Sec. 1. It shall be unlawful for any person, firm or corporation to assemble or rebuild, in whole or in part, an electric storage battery for any use or purposes out of second-hand or used material such as containers, separators, plates, groups or other battery parts, and to sell the same or offer to sell the same within the state of Michigan without the word "rebuilt" branded into the side of the container in letters at least 1 inch high and 5/8 of an inch wide.

**History:** 1933, Act 217, Eff. Oct. 17, 1933;—CL 1948, 752.131.

**752.132 Penalty for violation of act.**

Sec. 2. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding 100 dollars or by imprisonment in the county jail not exceeding 90 days, or by both such fine and imprisonment in the discretion of the court.

**History:** 1933, Act 217, Eff. Oct. 17, 1933;—CL 1948, 752.132.

**ENDURANCE CONTESTS**  
**Act 140 of 1935**

AN ACT to prohibit endurance contests known as walkathons and similar endurance contests; to prescribe a penalty for the violation thereof, and to repeal Act No. 65 of the Public Acts of 1933.

**History:** 1935, Act 140, Eff. Sept. 21, 1935.

*The People of the State of Michigan enact:*

**752.161 Unlawful to promote, conduct, or participate in endurance contests; exception; “person” defined.**

Sec. 1. (1) Except as provided in subsection (2), a person shall not promote, conduct, or participate in any endurance contest known as a walkathon or similar endurance contest.

(2) Subsection (1) does not apply to an event that begins and ends on the same day or an event that is completed within a predetermined time period of less than 12 hours.

(3) As used in this act, “person” means an individual, partnership, corporation, association, governmental entity, or other legal entity.

**History:** 1935, Act 140, Eff. Sept. 21, 1935;—CL 1948, 752.161;—Am. 2000, Act 401, Imd. Eff. Jan. 8, 2001.

**752.162 Violation as misdemeanor; penalty.**

Sec. 2. A person who violates this act is guilty of a misdemeanor punishable by a fine of not more than \$100.00 or imprisonment for not more than 90 days, or both. Each violation constitutes a separate and distinct offense.

**History:** 1935, Act 140, Eff. Sept. 21, 1935;—CL 1948, 752.162;—Am. 2000, Act 401, Imd. Eff. Jan. 8, 2001.

**FELONIOUS DRIVING**  
**Act 214 of 1931**

**752.191, 752.192 Repealed. 2001, Act 134, Eff. Feb. 1, 2002.**

**FISHING HOUSES OR SHELTERS PLACED ON ICE**  
**Act 134 of 1943**

**752.211-752.213 Repealed. 1993, Act 274, Eff. Apr. 1, 1994.**

**FISHING SHANTIES**  
**Act 274 of 1993**

**752.221-752.230 Repealed. 1995, Act 57, Imd. Eff. May 24, 1995.**

## **LIQUID FUELS, LUBRICATING OILS, OR SIMILAR PRODUCTS**

### **Act 231 of 1931**

AN ACT to prohibit fraud and deceit in the sale of liquid fuels, lubricating oils or similar products; to prohibit the sale of such products under false or fictitious names; to prohibit substitution, mixing or adulteration of such products so as to deceive the purchaser thereof as to their nature, quality and identity; to prohibit the use of containers, tanks, pumps or other distributing equipment for the storage or sale of such products, other than those indicated by the name, device, sign or distinguishing marks upon such containers, tanks, pumps or distributing equipment; and to provide a penalty for violations of this act.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931.

*The People of the State of Michigan enact:*

#### **752.251 Liquid fuels, lubricating oils; deceit in sale unlawful.**

Sec. 1. It shall be unlawful for any person, firm, co-partnership, association or corporation to store, sell, expose for sale or offer for sale any liquid fuels, lubricating oils or similar products, in any manner whatsoever, so as to deceive or tend to deceive the purchaser as to the nature, quality and/or identity of the product so sold or offered for sale.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.251.

#### **752.252 Liquid fuels, lubricating oils; distributing equipment to bear distinguishing mark.**

Sec. 2. It shall be unlawful for any person, firm, co-partnership, association or corporation to store, keep, expose for sale, offer for sale, or sell from any tank or container or from any pump or other distributing device any other liquid fuels, lubricating oils or similar products than those indicated by the name, trade name, trade name symbol, sign or other distinguishing mark or device of the manufacturer or distributor appearing upon the tank, container, pump or other distributing equipment from which the same are sold, offered for sale or distributed.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.252.

#### **752.253 Liquid fuels, lubricating oils; disguise of distributing equipment unlawful.**

Sec. 3. It shall be unlawful for any person, firm, co-partnership, association or corporation to disguise or camouflage his or their own equipment by imitating the design, symbol or trade name of the equipment under which recognized brands of liquid fuels, lubricating oils or similar products are generally marketed.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.253.

#### **752.254 Liquid fuels, lubricating oils; substitution, mixture or adulteration unlawful.**

Sec. 4. It shall be unlawful for any person, firm, co-partnership, association or corporation to expose for sale, offer for sale or sell under any trade-mark or trade name in general use any liquid fuels, lubricating oils or similar products except those manufactured or distributed by the manufacturer or distributor marketing liquid fuels, lubricating oils or similar products, under such trade-mark or trade name, or to substitute, mix or adulterate the liquid fuels, lubricating oils or similar products sold, offered for sale or distributed under such trade-mark or trade name.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.254.

#### **752.255 Liquid fuels, lubricating oils; unlawful deposit in distributing equipment.**

Sec. 5. It shall be unlawful for any person, firm, co-partnership, association or corporation to aid or assist any other person, firm, co-partnership, association or corporation in the violation of the provisions of this act by depositing or delivering into any tank, receptacle or other container any other liquid fuels, lubricating oils or similar products than those intended to be stored therein and distributed therefrom as indicated by the name of the manufacturer or distributor or the trade-mark or trade name of the product displayed on the container itself or on the pump or other distributing device used in connection therewith.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.255.

#### **752.256 Liquid fuels, lubricating oils; labeling of distributing equipment.**

Sec. 6. There shall be firmly attached to or painted on containers, tanks, pumps or other distributing equipment at or near the point from which liquid fuels, lubricating oils or similar products are drawn or poured out for sale or delivery, a sign or label consisting of the word or words in letters not less than 1 inch in height comprising the brand or trade name of such liquid fuels, lubricating oils or similar products; and if any

of such liquid fuels, lubricating oils or similar products shall have no brand or trade name the sign or label shall consist of the words, in letters not less than 3 inches high, "Gasoline, No Brand", or "Lubricating Oil, No Brand", or words of similar effect in the case of other products.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.256.

**752.257 Penalty.**

Sec. 7. Any person, firm, co-partnership, association or corporation, or any officer, agent or employee thereof, who shall violate any provision of this act shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than 500 dollars or by imprisonment in the county jail for not more than 1 year or by both such fine and imprisonment in the discretion of the court.

**History:** 1931, Act 231, Imd. Eff. May 29, 1931;—CL 1948, 752.257.

## **CHEMICAL AGENTS**

### **Act 119 of 1967**

AN ACT to regulate the sale, distribution, and use of certain chemical agents and devices containing certain chemical agents; and to provide penalties.

**History:** 1967, Act 119, Eff. Nov. 2, 1967;—Am. 1969, Act 206, Eff. Mar. 20, 1970;—Am. 2000, Act 299, Eff. Jan. 1, 2001.

*The People of the State of Michigan enact:*

#### **752.271 Chemical agent, definition.**

Sec. 1. As used in this act, “chemical agent” means any substance containing a toxic chemical or organic solvent or both, having the property of releasing toxic vapors. The term includes, but is not limited to, glue, acetone, toluene, carbon tetrachloride, hydrocarbons and hydrocarbon derivatives.

**History:** 1967, Act 119, Eff. Nov. 2, 1967;—Am. 1969, Act 206, Eff. Mar. 20, 1970.

#### **752.272 Inhalation or consumption of chemical agent prohibited; anesthesia inhalation excepted.**

Sec. 2. No person shall, for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction or dulling of the senses or nervous system, intentionally smell or inhale the fumes of any chemical agent or intentionally drink, eat or otherwise introduce any chemical agent into his respiratory or circulatory system. This shall not prohibit the inhalation of any anesthesia for medical or dental purposes.

**History:** 1967, Act 119, Eff. Nov. 2, 1967;—Am. 1969, Act 206, Eff. Mar. 20, 1970.

#### **752.272a Sale or distribution of device containing or dispensing nitrous oxide; prohibition; exceptions; violation; penalty; “prior conviction” defined.**

Sec. 2a. (1) A person shall not sell or otherwise distribute to another person any device that contains any quantity of nitrous oxide or sell or otherwise distribute a device to dispense nitrous oxide for the purpose of causing a condition of intoxication, euphoria, excitement, exhilaration, stupefaction, or dulling of the senses or nervous system. This subsection does not apply to nitrous oxide that has been denatured or otherwise rendered unfit for human consumption or to any of the following:

(a) A person licensed under the food processing act of 1977, 1978 PA 328, MCL 289.801 to 289.810, or chapter VII of the food law of 2000, 2000 PA 92, MCL 289.7101 to 289.7137, who sells or otherwise distributes the device as a grocery product.

(b) A person engaged in the business of selling or distributing catering supplies only or food processing equipment only, or selling or distributing compressed gases for industrial or medical use who sells or otherwise distributes the device in the course of that business.

(c) A pharmacist, pharmacist intern, or pharmacy as defined in section 17707 of the public health code, 1978 PA 368, MCL 333.17707, who dispenses the device in the course of his or her duties as a pharmacist or pharmacist intern or as a pharmacy.

(d) A health care professional.

(2) A person who violates subsection (1) is guilty of a crime as follows:

(a) Except as provided in subdivisions (b) and (c), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

(b) If the person has 1 prior conviction, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$500.00, or both.

(c) If the person has 2 or more prior convictions, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$2,000.00, or both.

(3) As used in this section, “prior conviction” means a previous violation of this section or a law of another state, a law of a local unit of government of this state or another state, or a law of the United States substantially corresponding to this section.

**History:** Add. 2000, Act 299, Eff. Jan. 1, 2001.

#### **752.273 Violation as misdemeanor; penalty.**

Sec. 3. Except as provided in section 2a, a person who violates this act is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$100.00, or both.

**History:** 1967, Act 119, Eff. Nov. 2, 1967;—Am. 2000, Act 299, Eff. Jan. 1, 2001.

**752.274 Repealed. 2000, Act 299, Eff. Jan. 1, 2001.**

**Compiler's note:** The repealed section pertained to penalty for aiding or abetting violation of act.

**OVERTHROW OF GOVERNMENT  
Act 168 of 1935**

**752.301,752.302 Repealed. 1950, Ex. Sess., Act 38, Imd. Eff. Sept. 8, 1950.**

**OVERTHROW OR DESTRUCTION OF GOVERNMENT  
Act 38 of 1950 (Ex. Sess.)**

**752.311-752.315 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.**

**MICHIGAN COMMUNIST CONTROL LAW  
Act 117 of 1952**

**752.321-752.332 Repealed. 1978, Act 571, Imd. Eff. Jan. 2, 1979.**

**SIGNAL AND BARRICADE WHERE ICE IS CUT  
Act 221 of 1899**

**752.351-752.353 Repealed. 2000, Act 196, Imd. Eff. June 22, 2000.**

## **OBSCENE MATERIAL**

### **Act 343 of 1984**

AN ACT to define and prohibit the possession or dissemination of obscene material under certain circumstances; to prohibit conduct related thereto; to provide penalties; to prohibit local units of government from enacting or enforcing any law, ordinance, or rule pertaining to matters under this act; and to repeal certain acts and parts of acts.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

*The People of the State of Michigan enact:*

#### **752.361 Meanings of words and phrases.**

Sec. 1. For the purposes of this act, the words and phrases in sections 2 to 4 have the meanings ascribed to them in those sections.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

#### **752.362 Definitions; C to O.**

Sec. 2. (1) "Contemporary community standards" means the customary limits of candor and decency in this state at or near the time of the alleged violation of this act.

(2) "Disseminate" means to manufacture, sell, lend, rent, publish, exhibit, or lease to the public for commercial gain or to offer or agree to manufacture, sell, lend, rent, publish, exhibit, or lease to the public for commercial gain.

(3) "Knowledge of content and character" means having general knowledge of the nature and character of the material involved. Knowledge of content and character may be proven by direct evidence or by circumstantial evidence, or both.

(4) "Material" means anything tangible that is capable of being used or adapted to arouse prurient interest, whether through the medium of reading, observation, sound, or in any other manner, including but not limited to, anything printed or written, any book, magazine, newspaper, pamphlet, picture, drawing, pictorial representation, motion picture, photograph, video tape, video disk, film, transparency, slide, audiotape, audiodisk, computer tape, or any other medium used to electronically produce or reproduce images on a screen, or any mechanical, chemical, or electronic reproduction. Material includes undeveloped photographs, molds, printing plates, and other latent representational objects whether or not processing or other acts are required to make the content of the material apparent.

(5) "Obscene" means any material that meets all of the following criteria:

(a) The average individual, applying contemporary community standards, would find the material, taken as a whole, appeals to the prurient interest.

(b) The reasonable person would find the material, taken as a whole, lacks serious literary, artistic, political, or scientific value.

(c) The material depicts or describes sexual conduct in a patently offensive way.

**History:** 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.

#### **752.363 Definitions; P.**

Sec. 3. (1) "Person" means an individual, or a sole proprietorship, partnership, corporation, association, or other legal entity, or an agent or servant of an individual or legal entity.

(2) "Prurient interest" means a shameful or morbid interest in nudity, sex, or excretion.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

#### **752.364 "Sexual conduct" defined.**

Sec. 4. (1) "Sexual conduct" means 1 or more of the following:

(a) Representations or descriptions of ultimate sexual acts, normal or perverted, actual or simulated.

(b) Representations or descriptions of masturbation, excretory functions, or a lewd exhibition of the genitals.

(2) "Simulated" means the explicit depiction or description of any of the types of conduct set forth in the definition of sexual conduct under subsection (1), which creates the appearance of such conduct.

(3) "Ultimate sexual acts" means sexual intercourse, fellatio, cunnilingus, anal intercourse, or any other intrusion, however slight, of any part of a person's body or of any object into the genital or anal openings of another person's body, or depictions or descriptions of sexual bestiality, sadomasochism, masturbation, or excretory functions.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

**752.365 Obscenity; elements; misdemeanor; penalty; second or subsequent offense as a felony.**

Sec. 5. (1) A person is guilty of obscenity when, knowing the content and character of the material, the person disseminates, or possesses with intent to disseminate, any obscene material.

(2) Obscenity is a misdemeanor, punishable by imprisonment for not more than 1 year, or by a fine of not more than \$100,000.00, or both.

(3) A person convicted of a second or subsequent offense under this section is guilty of a felony and may be imprisoned for not more than 2 years, and shall be fined not less than \$50,000.00 or more than \$5,000,000.00. For purposes of this section, an offense is considered a second or subsequent offense if the defendant has previously been convicted under this section or under any similar statute of the United States or of any state.

**History:** 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.

**752.366 Repealed. 1992, Act 216, Eff. Mar. 31, 1993.**

**Compiler's note:** The repealed section pertained to obscenity in the second degree.

**752.367 Applicability of § 752.365.**

Sec. 7. Section 5 does not apply to the dissemination of obscene material by any of the following:

(a) An individual who disseminates obscene material in the course of his or her duties as an employee of, or as a member of the board of directors of, any of the following:

(i) A public or private college, university, or vocational school.

(ii) A library established by this state or a library established by a county, city, township, village, or other local unit of government or authority or combination of local units of government and authorities or a library established by a community college district.

(iii) A public or private not for profit art museum that is exempt from taxation under section 501(c)(3) of the internal revenue code.

(b) An individual who disseminates obscene material in the course of the individual's employment and does not have discretion with regard to that dissemination or is not involved in the management of the employer.

(c) Any portion of a business regulated by the federal communications commission.

(d) A cable television operator that is subject to the communications act of 1934, chapter 652, 48 Stat. 1064.

**History:** 1984, Act 343, Eff. Mar. 29, 1985;—Am. 1992, Act 216, Eff. Mar. 31, 1993.

**752.368 Prohibited conduct; violation as misdemeanor; penalty.**

Sec. 8. (1) A person shall not:

(a) As a condition to a sale, allocation, consignment, or delivery for the resale of any paper, magazine, periodical, book, publication, or other merchandise, require or demand that the purchaser or consignee receive for resale or further commercial distribution any obscene material.

(b) Deny, revoke, or threaten to deny or revoke a franchise, or impose or threaten to impose any penalty, financial or otherwise, because of the failure or refusal to accept obscene material or material reasonably believed by the purchaser or consignee to be obscene.

(2) A violation of this section is a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$500.00, or both.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

**752.369 Action by prosecuting attorney or attorney general.**

Sec. 9. A prosecuting attorney or the attorney general may commence and prosecute an action under this act.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

**752.370 Prohibited law, ordinance, or rules; exceptions.**

Sec. 10. (1) A municipality, township, village, city, or an instrumentality thereof shall not enact or enforce any law, ordinance, or rule which regulates, or intends to regulate, any matter covered by this act.

(2) Subsection (1) does not apply to a zoning law, zoning ordinance, or zoning rule.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.



**752.371-752.373 Repealed. 1992, Act 216, Eff. Mar. 31, 1993.**

**Compiler's note:** The repealed sections pertained to obtaining and using an advisory opinion and declaratory judgment and establishing a burden of proof.

**752.374 Repeal of §§ 750.343a to 750.343d, 750.344, 750.345, 750.345a, and 750.346.**

Sec. 14. Sections 343a to 343d, 344, 345, 345a, and 346 of Act No. 328 of the Public Acts of 1931, being sections 750.343a to 750.343d, 750.344, 750.345, 750.345a, and 750.346 of the Michigan Compiled Laws, are repealed.

**History:** 1984, Act 343, Eff. Mar. 29, 1985.

**WATERCRAFT; SOUND, SPEED, AND LIGHT  
Act 215 of 1931**

**752.401-752.404 Repealed. 1964, Act 256, Eff. Aug. 28, 1964.**

**PSITTACINE BIRDS  
Act 164 of 1943**

**752.441,752.442 Repealed. 1960, Act 7, Eff. Aug. 17, 1960.**

**REVISED STATUTES OF 1846**

**CHAPTER 158**

Chapter 158. Of Offences Against Chastity, Morality and Decency.

**752.461 House of ill-fame or gaming house; conviction of lessee; effect on lease.**

Sec. 11. Whenever the lessee of any dwellinghouse shall be convicted, or shall be guilty of the offense mentioned in the preceding section, or of keeping a common gaming house for the purpose of gaming for money or other property, the lease or contract for letting such house, shall, at the option of the lessor, become void, and such lessor shall thereupon have the like remedy to recover the possession, as against a tenant holding over after the expiration of his term.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5866;—Am. 1865, Act 226, Eff. June 22, 1865;—CL 1871, 7701;—How. 9287;—CL 1897, 11698;—CL 1915, 15472;—CL 1929, 16827;—CL 1948, 752.461.

**Compiler's note:** For "preceding section," referred to in this section, see § 10 of Ch. 158 of R.S. 1846 and notes to §§ 750.452 and 750.566.

**CROSSING RAILROAD TRACKS  
Act 94 of 1943**

**752.501-752.503 Repealed. 1949, Act 300, Eff. Sept. 23, 1949.**

**REVISED STATUTES OF 1846**

**CHAPTER 158-Continued-2**

Chapter 158. Of Offences Against Chastity, Morality and Decency.

**752.525 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; prohibited acts.**

Sec. 25. No person shall wilfully disturb, interrupt, or disquiet any assembly of people met for religious worship, by profane discourse, by rude and indecent behavior, or by making a noise either within the place of worship, or so near it as to disturb the order and solemnity of the meeting; nor shall any person within 2 miles of the place where any religious society shall be actually assembled for religious worship, expose to sale or gift, any ardent or distilled liquors, wine, beer, cider, fruit, or any other article of food or merchandize, or keep open any huxter shop in any other place, inn, stand or grocery, than such as shall be, or have been duly licensed, or in which such person shall have usually carried on such business; nor shall any person within the distance aforesaid, exhibit any shows, or plays, unless the same shall have been duly licensed by the proper authority; nor shall any person within the distance aforesaid, promote, aid, or be engaged in any racing of any

animals, or in any gaming of any description; nor shall any person obstruct the free passage of any highway to any place of public worship, within the distance aforesaid.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5880;—CL 1871, 7714;—How. 9300;—CL 1897, 11713;—CL 1915, 15488;—CL 1929, 16839;—CL 1948, 752.525.

#### **752.526 Violation of § 752.525; fine.**

Sec. 26. Whoever shall violate either of the provisions of the foregoing section, may be convicted before the district or municipal court of the judicial district or municipality where the offense was committed, and on such conviction shall be fined a sum not exceeding \$25.00, for the benefit of the township libraries.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5881;—CL 1871, 7715;—How. 9301;—CL 1897, 11714;—CL 1915, 15489;—CL 1929, 16840;—CL 1948, 752.526;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

#### **752.527 Duty to apprehend offender.**

Sec. 27. It shall be the duty of all sheriffs, and their deputies, coroners, marshals, constables, and other peace officers, all presiding elders, and ministers of the gospel, deacons, stewards and official members of any church or religious society, who may be present at the meeting of any assembly for religious worship, which shall be interrupted or disturbed in the manner prohibited, on sight to apprehend the offender, and take him or her before the district or municipal court of the judicial district or municipality, to be proceeded against according to law.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5882;—Am. 1871, Act 61, Eff. July 18, 1871;—CL 1871, 7716;—How. 9302;—CL 1897, 11715;—CL 1915, 15490;—CL 1929, 16841;—CL 1948, 752.527;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

#### **752.528 Ordering offender into custody.**

Sec. 28. All judges, mayors, and aldermen, within their respective jurisdictions, upon their own view of any person offending against the provisions of either of the last 3 preceding sections of this chapter, may order the offender into the custody of any officer in the preceding section named, or any official member of the church or society so assembled or disturbed, for safe keeping, until he or she shall be held to bail, or a trial for such offense be had.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5883;—CL 1871, 7717;—How. 9303;—CL 1897, 11716;—CL 1915, 15491;—CL 1929, 16842;—CL 1948, 752.528;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

#### **752.529 Religious meeting, disturbance, carrying on certain business within two miles, obstruction of highway; commitment to jail if penalty not paid.**

Sec. 29. If any person convicted of any of the offenses herein prohibited, shall not immediately pay the penalty incurred, with the costs of the conviction, or give security to the satisfaction of the officer before whom the conviction shall be had, for the payment of the said penalty and costs within 20 days thereafter, he shall be committed by warrant to the common jail of the county, until the same be paid, or for such term, not exceeding 30 days, as shall be specified in the warrant.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5884;—CL 1871, 7718;—How. 9304;—CL 1897, 11717;—CL 1915, 15492;—CL 1929, 16843;—CL 1948, 752.529.

#### **752.530 Jury trial; costs.**

Sec. 30. It shall be lawful for any person complained of, for the violation of any of the provisions of either of the last 2 preceding sections of this chapter, before the court shall proceed to investigate the merits of the cause, to demand of such court, that he or she may be tried by a jury; upon such demand, it shall be the duty of such court to issue a venire to any constable of the county or marshal of the city where the case is to be tried, commanding such officer to summon the same number of jurors, and in the same manner as is provided for in the summoning of jurors before the district or municipal court. The court shall proceed to impanel a jury for the trial of the cause, in the same manner, and shall be subject to all the rules and regulations prescribed in the act providing for trial by jury in the district or municipal court. The costs of suit shall be paid by the party offending in case of conviction, and shall be the same as is allowed by law in civil cases.

**History:** R.S. 1846, Ch. 158;—CL 1857, 5885;—CL 1871, 7719;—How. 9305;—CL 1897, 11718;—CL 1915, 15493;—CL 1929, 16844;—CL 1948, 752.530;—Am. 1991, Act 145, Imd. Eff. Nov. 25, 1991.

## **RIOTS AND RELATED CRIMES**

### **Act 302 of 1968**

AN ACT to define and prescribe the penalties for the crime of rioting and related crimes; and to repeal certain acts and parts of acts.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968.

*The People of the State of Michigan enact:*

#### **752.541 Riot.**

Sec. 1. It is unlawful and constitutes the crime of riot for 5 or more persons, acting in concert, to wrongfully engage in violent conduct and thereby intentionally or recklessly cause or create a serious risk of causing public terror or alarm.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968.

#### **752.542 Inciting to riot.**

Sec. 2. It is unlawful and constitutes incitement to riot for a person or persons, intending to cause or to aid or abet the institution or maintenance of a riot, to do an act or engage in conduct that urges other persons to commit acts of unlawful force or violence, or the unlawful burning or destroying of property, or the unlawful interference with a police officer, peace officer, fireman or a member of the Michigan national guard or any unit of the armed services officially assigned to riot duty in the lawful performance of his duty.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968.

#### **752.542a Riot at state correctional facility.**

Sec. 2a. A person shall not willfully instigate, cause, attempt to cause, assist in causing, or conspire to cause a riot at a state correctional facility. As used in this section, "riot at a state correctional facility" means 3 or more persons, acting in concert, who intentionally or recklessly engage in violent conduct within a state correctional facility that threatens the security of the state correctional facility or threatens the safety or authority of persons responsible for maintaining the security of the state correctional facility.

**History:** Add. 1988, Act 393, Eff. Mar. 30, 1989.

#### **752.543 Unlawful assembly.**

Sec. 3. It is unlawful and constitutes an unlawful assembly for a person to assemble or act in concert with 4 or more persons for the purpose of engaging in conduct constituting the crime of riot, or to be present at an assembly that either has or develops such a purpose and to remain thereat with intent to advance such purpose.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968.

#### **752.544 Violation as felony; penalty.**

Sec. 4. (1) A violation of section 1, 2, or 2a is a felony, punishable by not more than 10 years in prison or a fine of not more than \$10,000.00, or both.

(2) A violation of section 3 is a felony, punishable by not more than 5 years in prison or a fine of not more than \$5,000.00, or both.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968;—Am. 1988, Act 393, Eff. Mar. 30, 1989.

#### **752.545 Repeal.**

Sec. 5. Sections 521 and 522 of Act No. 328 of the Public Acts of 1931, being sections 750.521 and 750.522 of the Compiled Laws of 1948, are repealed.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968.

#### **752.546 Effective date.**

Sec. 6. This act shall take effect July 1, 1968.

**History:** 1968, Act 302, Imd. Eff. July 1, 1968.

**PROHIBITED CONDUCT AT INSTITUTIONS OF HIGHER EDUCATION**  
**Act 26 of 1970**

AN ACT to provide penalties for certain conduct at public institutions of higher education.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970.

*The People of the State of Michigan enact:*

**752.581 Colleges and universities; wilfully remaining on premises, misdemeanor, penalty.**

Sec. 1. A person is guilty of a misdemeanor, punishable by a fine of not more than \$500.00, or by incarceration in the county jail for not more than 30 days, or both:

(a) When the chief administrative officer of a publicly owned and operated institution of higher education, or his designee, notifies the person that he is such officer or designee and that the person is in violation of the properly promulgated rules of the institution; and

(b) When the person is in fact in violation of such rules; and

(c) When, thereafter, such officer or designee directs the person to vacate the premises, building or other structure of the institution; and

(d) When the person thereafter wilfully remains in or on such premises, building or other structure; and

(e) When, in so remaining therein or thereon, the person constitutes (1) a clear and substantial risk of physical harm or injury to other persons or of damage to or destruction of the property of the institution, or (2) an unreasonable prevention or disruption of the customary and lawful functions of the institution, by occupying space necessary therefor or by use of force or by threat of force.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970.

**752.582 Colleges and universities; damaging or disrupting, misdemeanor.**

Sec. 2. A person is guilty of a misdemeanor, punishable by a fine of not less than \$200.00 and not more than \$1,000.00, or by incarceration in the county jail for not more than 90 days, or both, who enters on the premises, building or other structure of a publicly owned and operated institution of higher education, with the intention to, and therein or thereon does in fact, constitute (a) a clear and substantial risk of physical harm or injury to other persons or of damage to or destruction of the property of the institution, or (b) an unreasonable prevention or disruption of the customary and lawful function of the institution, by occupying space necessary therefor or by use of force or by threat of force.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970.

**752.583 Effective date.**

Sec. 3. This act shall take effect August 1, 1970.

**History:** 1970, Act 26, Imd. Eff. Aug. 1, 1970.

**NONTRANSFERABLE RAILROAD, STEAMSHIP, OR BUS TICKETS**  
**Act 269 of 1937**

AN ACT to prevent the unauthorized buying or selling, or offering to buy or sell, of non-transferable tickets issued by railroad or steamship companies or certificated bus lines, and to provide penalties for the violation of this act.

**History:** 1937, Act 269, Imd. Eff. July 22, 1937.

*The People of the State of Michigan enact:*

**752.651 Unused portion of any non-transferable railroad, steamship or bus tickets, unlawful acts.**

Sec. 1. It shall be unlawful for any person, association of persons, firm, co-partnership or corporation to buy or sell, or to offer to buy or sell, the unused portion of any non-transferable tickets issued by any railroad or steamship company or certificated bus line, restricted to use only by the original holder thereof or by a person or persons to whom or for whom the same was originally issued by the railroad or steamship company or certificated bus line issuing the same, or to act as vendor or broker of partially used non-transferable tickets issued by railroad or steamship companies or certificated bus lines, or to solicit, personally or by sign or advertisement, or in any other manner, or to aid in the sale or purchase of partially used non-transferable tickets issued by railroad or steamship companies or certificated bus lines within this state.

**History:** 1937, Act 269, Imd. Eff. July 22, 1937;—CL 1948, 752.651.

**752.652 Penalty.**

Sec. 2. Any person, association of persons, firm, co-partnership or corporation violating any of the provisions of this act shall, upon conviction, for each offense, be punished by a fine not exceeding 100 dollars or imprisonment not exceeding 90 days, or by both such fine and imprisonment at the discretion of the court; and each prohibited transaction shall be deemed a separate offense, and shall be punishable accordingly.

**History:** 1937, Act 269, Imd. Eff. July 22, 1937;—CL 1948, 752.652.

**TIMBER**  
**Act 165 of 1867**

**752.701-752.703 Repealed. 1998, Act 311, Eff. Jan. 1, 1999.**

**TOMATOES**  
**Act 113 of 1939**

**752.751, 752.752 Repealed. 2007, Act 10, Imd. Eff. May 24, 2007.**

**TRADE SECRETS**  
**Act 329 of 1968**

**752.771-752.773 Repealed. 1998, Act 448, Imd. Eff. Dec. 30, 1998.**

**UNAUTHORIZED TRANSFER OF RECORDED SOUND**  
**Act 274 of 1975**

AN ACT to prohibit the unauthorized transfer of recorded sound and the sale, transfer, advertising, or possession for sale or transfer, of products resulting therefrom; and to provide penalties and remedies.

**History:** 1975, Act 274, Eff. Mar. 31, 1976.

*The People of the State of Michigan enact:*

**752.781 "Owner" defined.**

Sec. 1. As used in this act, "owner" means the person who owns the original fixation of sounds embodied in the master phonograph record, master disc, master tape, master film, or other article used for reproducing sound on phonograph records, discs, tapes, films, or other articles upon which sound is recorded, and from which the transferred recorded sound is directly or indirectly derived.

**History:** 1975, Act 274, Eff. Mar. 31, 1976.

**752.782 Transfer of recorded sound for sale or sales promotion without consent of owner; penalty.**

Sec. 2. (1) A person, without the consent of the owner, shall not transfer or cause to be transferred sound recorded on a phonograph record, disc, wire, tape, film, or other article on which sound is recorded, with the intent to sell or cause to be sold for profit or used to promote the sale of a product, the article on which the sound is so transferred.

(2) A person who violates this section shall be guilty of a misdemeanor punishable by imprisonment for not more than 1 year, or a fine of not more than \$5,000.00, or both.

**History:** 1975, Act 274, Eff. Mar. 31, 1976.

**752.783 Advertising or sale of recorded sound without consent of owner.**

Sec. 3. (1) A person, knowing or having reasonable grounds to know that the sound thereon has been transferred without the consent of the owner, shall not advertise, sell, resell, offer for sale or resale, or possess for the purpose of sale or resale, an article that has been produced in violation of section 2.

(2) A person who violates this section shall be guilty of a misdemeanor punishable by a fine of not more than \$100.00 for each offense.

**History:** 1975, Act 274, Eff. Mar. 31, 1976.

**752.784 Recordings to which §§ 752.782 and 752.783 applicable.**

Sec. 4. Sections 2 and 3 of this act shall apply only to those recordings originally fixed before February 15, 1972, which were not protected by 17 U.S.C. section 1(f).

**History:** 1975, Act 274, Eff. Mar. 31, 1976.

**752.785 Persons to whom act inapplicable.**

Sec. 5. This act does not apply to a person who transfers or causes to be transferred sound:

(a) Intended for or in connection with radio or television broadcast transmission or related uses.

(b) For archival, library, or educational purposes.

(c) Solely for the personal use of the person transferring or causing the transfer and without any compensation being derived by the person from the transfer.

**History:** 1975, Act 274, Eff. Mar. 31, 1976.

**FRAUDULENT ACCESS TO COMPUTERS, COMPUTER SYSTEMS, AND COMPUTER NETWORKS**  
**Act 53 of 1979**

AN ACT to prohibit access to computers, computer systems, and computer networks for certain fraudulent purposes; to prohibit intentional and unauthorized access, alteration, damage, and destruction of computers, computer systems, computer networks, computer software programs, and data; to prohibit the sending of certain electronic messages; and to prescribe penalties.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 2004, Act 242, Imd. Eff. July 21, 2004.

*The People of the State of Michigan enact:*

**752.791 Meanings of words and phrases.**

Sec. 1. For the purposes of this act, the words and phrases defined in sections 2 and 3 have the meanings ascribed to them in those sections.

**History:** 1979, Act 53, Eff. Mar. 27, 1980.

**752.792 Definitions; A to D.**

Sec. 2. (1) “Access” means to instruct, communicate with, store data in, retrieve or intercept data from, or otherwise use the resources of a computer program, computer, computer system, or computer network.

(2) “Aggregate amount” means any direct or indirect loss incurred by a victim or group of victims including, but not limited to, the value of any money, property or service lost, stolen, or rendered unrecoverable by the offense, or any actual expenditure incurred by the victim or group of victims to verify that a computer program, computer, computer system, or computer network was not altered, acquired, damaged, deleted, disrupted, or destroyed by the access. The direct or indirect losses incurred in separate incidents pursuant to a scheme or course of conduct within any 12-month period may be aggregated to determine the total value of the loss involved in the violation of this act.

(3) “Computer” means any connected, directly interoperable or interactive device, equipment, or facility that uses a computer program or other instructions to perform specific operations including logical, arithmetic, or memory functions with or on computer data or a computer program and that can store, retrieve, alter, or communicate the results of the operations to a person, computer program, computer, computer system, or computer network.

(4) “Computer network” means the interconnection of hardwire or wireless communication lines with a computer through remote terminals, or a complex consisting of 2 or more interconnected computers.

(5) “Computer program” means a series of internal or external instructions communicated in a form acceptable to a computer that directs the functioning of a computer, computer system, or computer network in a manner designed to provide or produce products or results from the computer, computer system, or computer network.

(6) “Computer system” means a set of related, connected or unconnected, computer equipment, devices, software, or hardware.

(7) “Device” includes, but is not limited to, an electronic, magnetic, electrochemical, biochemical, hydraulic, optical, or organic object that performs input, output, or storage functions by the manipulation of electronic, magnetic, or other impulses.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997;—Am. 2000, Act 181, Eff. Sept. 18, 2000.

**752.793 Definitions; P to S.**

Sec. 3. (1) “Property” includes, but is not limited to, intellectual property, computer data, instructions or programs in either machine or human readable form, financial instruments or information, medical information, restricted personal information, or any other tangible or intangible item of value.

(2) “Services” includes, but is not limited to, computer time, data processing, storage functions, computer memory, or the unauthorized use of a computer program, computer, computer system, or computer network, or communication facilities connected or related to a computer, computer system, or computer network.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997.

**752.794 Prohibited access to computer program, computer, computer system, or computer network.**

Sec. 4. A person shall not intentionally access or cause access to be made to a computer program, computer, computer system, or computer network to devise or execute a scheme or artifice with the intent to



defraud or to obtain money, property, or a service by a false or fraudulent pretense, representation, or promise.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997.

#### **752.795 Prohibited conduct.**

Sec. 5. A person shall not intentionally and without authorization or by exceeding valid authorization do any of the following:

(a) Access or cause access to be made to a computer program, computer, computer system, or computer network to acquire, alter, damage, delete, or destroy property or otherwise use the service of a computer program, computer, computer system, or computer network.

(b) Insert or attach or knowingly create the opportunity for an unknowing and unwanted insertion or attachment of a set of instructions or a computer program into a computer program, computer, computer system, or computer network, that is intended to acquire, alter, damage, delete, disrupt, or destroy property or otherwise use the services of a computer program, computer, computer system, or computer network. This subdivision does not prohibit conduct protected under section 5 of article I of the state constitution of 1963 or under the first amendment of the constitution of the United States.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997.

#### **752.795a Michigan children's protection registry act; violation.**

Sec. 5a. A violation of the Michigan children's protection registry act is a violation of this act.

**History:** Add. 2004, Act 242, Imd. Eff. July 21, 2004.

#### **752.796 Use of computer program, computer, computer system, or computer network to commit crime.**

Sec. 6. (1) A person shall not use a computer program, computer, computer system, or computer network to commit, attempt to commit, conspire to commit, or solicit another person to commit a crime.

(2) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law committed by that person while violating or attempting to violate this section, including the underlying offense.

(3) This section applies regardless of whether the person is convicted of committing, attempting to commit, conspiring to commit, or soliciting another person to commit the underlying offense.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997;—Am. 2000, Act 179, Eff. Sept. 18, 2000.

#### **752.796a Violation of MCL 752.795a; penalties; exception; defense; burden of proof; effective date of section.**

Sec. 6a. (1) A person who violates section 5a is guilty of the following:

(a) For the first violation, a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$10,000.00, or both.

(b) For the second violation, a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$20,000.00, or both.

(c) For the third and any subsequent violation, a felony punishable by imprisonment for not more than 3 years or a fine of not more than \$30,000.00, or both.

(2) A person does not violate section 5a because the person is an intermediary between the sender and recipient in the transmission of an electronic message that violates section 5a or unknowingly provides transmission of electronic messages over the person's computer network or facilities that violate section 5a.

(3) It is a defense to an action brought under this section that the communication was transmitted accidentally. The burden of proving that the communication was transmitted accidentally is on the sender.

(4) This section does not take effect until July 1, 2005.

**History:** Add. 2004, Act 242, Eff. July 1, 2005.

#### **752.796b Money, income, and property subject to seizure and forfeiture.**

Sec. 6b. All money and other income, including all proceeds earned but not yet received by a defendant from a third party as a result of the defendant's violations of this act, and all computer equipment, all computer software, and all personal property used in connection with any violation of this act known by the owner to have been used in violation of this act are subject to lawful seizure and forfeiture in the same manner as provided under sections 4701 to 4709 of the revised judicature act of 1961, 1961 PA 236, MCL 600.4701 to 600.4709.



**752.797 Penalties; prior convictions; presumption; reimbursement order; definition.**

Sec. 7. (1) A person who violates section 4 is guilty of a crime as follows:

(a) If the violation involves an aggregate amount of less than \$200.00, the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00 or 3 times the aggregate amount, whichever is greater, or both imprisonment and a fine.

(b) If any of the following apply, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$2,000.00 or 3 times the aggregate amount, whichever is greater, or both imprisonment and a fine:

(i) The violation involves an aggregate amount of \$200.00 or more but less than \$1,000.00.

(ii) The person violates this act and has a prior conviction.

(c) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00 or 3 times the aggregate amount, whichever is greater, or both imprisonment and a fine:

(i) The violation involves an aggregate amount of \$1,000.00 or more but less than \$20,000.00.

(ii) The person has 2 prior convictions.

(d) If any of the following apply, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than 3 times the aggregate amount, or both imprisonment and a fine:

(i) The violation involves an aggregate amount of \$20,000.00 or more.

(ii) The person has 3 or more prior convictions.

(2) A person who violates section 5 is guilty of a crime as follows:

(a) Except as provided in subdivision (b), the person is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$10,000.00, or both.

(b) If the person has a prior conviction, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$50,000.00, or both.

(3) A person who violates section 6 is guilty of a crime as follows:

(a) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 1 year or less, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$5,000.00, or both.

(b) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of more than 1 year but less than 2 years, the person is guilty of a felony punishable by imprisonment for not more than 2 years or a fine of not more than \$5,000.00, or both.

(c) If the underlying crime is a misdemeanor or a felony with a maximum term of imprisonment of 2 years or more but less than 4 years, the person is guilty of a felony punishable by imprisonment for not more than 4 years or a fine of not more than \$5,000.00, or both.

(d) If the underlying crime is a felony with a maximum term of imprisonment of 4 years or more but less than 10 years, the person is guilty of a felony punishable by imprisonment for not more than 7 years or a fine of not more than \$5,000.00, or both.

(e) If the underlying crime is a felony punishable by a maximum term of imprisonment of 10 years or more but less than 20 years, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$10,000.00, or both.

(f) If the underlying crime is a felony punishable by a maximum term of imprisonment of 20 years or more or for life, the person is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(4) The court may order that a term of imprisonment imposed under subsection (3) be served consecutively to any term of imprisonment imposed for conviction of the underlying offense.

(5) If the prosecuting attorney intends to seek an enhanced sentence under section 4 or section 5 based upon the defendant having a prior conviction, the prosecuting attorney shall include on the complaint and information a statement listing that prior conviction. The existence of the defendant's prior conviction shall be determined by the court, without a jury, at sentencing. The existence of a prior conviction may be established by any evidence relevant for that purpose, including, but not limited to, 1 or more of the following:

(a) A copy of the judgment of conviction.

(b) A transcript of a prior trial, plea-taking, or sentencing.

(c) Information contained in a presentence report.

(d) The defendant's statement.

(6) It is a rebuttable presumption in a prosecution for a violation of section 5 that the person did not have authorization from the owner, system operator, or other person who has authority from the owner or system

operator to grant permission to access the computer program, computer, computer system, or computer network or has exceeded authorization unless 1 or more of the following circumstances existed at the time of access:

(a) Written or oral permission was granted by the owner, system operator, or other person who has authority from the owner or system operator to grant permission of the accessed computer program, computer, computer system, or computer network.

(b) The accessed computer program, computer, computer system, or computer network had a pre-programmed access procedure that would display a bulletin, command, or other message before access was achieved that a reasonable person would believe identified the computer program, computer, computer system, or computer network as within the public domain.

(c) Access was achieved without the use of a set of instructions, code, or computer program that bypasses, defrauds, or otherwise circumvents the pre-programmed access procedure for the computer program, computer, computer system, or computer network.

(7) The court may order a person convicted of violating this act to reimburse this state or a local unit of government of this state for expenses incurred in relation to the violation in the same manner that expenses may be ordered to be reimbursed under section 1f of chapter IX of the code of criminal procedure, 1927 PA 175, MCL 769.1f.

(8) As used in this section, "prior conviction" means a violation or attempted violation of section 145d of the Michigan penal code, 1931 PA 328, MCL 750.145d, or this act or a substantially similar law of the United States, another state, or a political subdivision of another state.

**History:** 1979, Act 53, Eff. Mar. 27, 1980;—Am. 1996, Act 326, Eff. Apr. 1, 1997;—Am. 2000, Act 180, Eff. Sept. 18, 2000.

**VENDING MACHINE SLUGS**  
**Act 148 of 1933**

AN ACT to provide penalties for using, manufacturing, selling or giving away tokens, slugs, or spurious coins for the fraudulent operation of vending machines, coin-boxes, depository boxes or other receptacles, designed to receive lawful coins of the United States of America, in payment for the sale, use or enjoyment of property or service.

**History:** 1933, Act 148, Eff. Oct. 17, 1933.

*The People of the State of Michigan enact:*

**752.801 Vending machine or other receptacle designed to receive or be operated by lawful coin; use of slugs or other device as misdemeanor; penalty.**

Sec. 1. Any person who by means of any token, slug, false or counterfeited coin, or by any other means, method, trick, or device whatsoever not lawfully authorized by the owner, lessee, or licensee of any vending machine, coin-box, depository box, or other receptacle established and maintained for the service of the public, and designed to receive or be operated by lawful coin of the United States of America in furtherance of or in connection with the sale, use, or enjoyment of property or service, knowingly shall operate or cause to be operated, or shall attempt to operate or attempt to cause to be operated, any such vending machine or other receptacle, or whoever shall take, obtain, accept, or receive from or by means of any such vending machine or other receptacle, any article of value or service or the use or enjoyment of any facility or service, without depositing in, delivering to and payment into such vending machine or other receptacle the amount of lawful coin of the United States of America properly chargeable and legally collectible by the owner, lessee, or licensee of the vending machine, coin-box, or other receptacle, as and for the price of an article of value or service or for the use or enjoyment of any facility or service, shall be deemed guilty of a misdemeanor, and on conviction thereof shall be fined not more than \$200.00, or imprisoned for not more than 6 months, or both.

**History:** 1933, Act 148, Eff. Oct. 17, 1933;—CL 1948, 752.801;—Am. 1985, Act 49, Imd. Eff. June 14, 1985.

**752.802 Slugs for vending machines; manufacture, felony.**

Sec. 2. Any person who, with intent to cheat or defraud the owner, lessee, licensee or other person entitled to the contents of any vending machine, coin-box, depository box or other receptacle designed to receive or be operated by lawful coin of the United States of America in furtherance of or connection with the sale, use or enjoyment of property or service or the use or enjoyment of any facilities, or whoever, knowingly or having cause to believe that the same is intended for fraudulent or unlawful use on the part of the purchaser, donee or user thereof, shall manufacture for sale, sell or give away any token, slug, false or counterfeited coin or any device or substance whatsoever intended or calculated to be placed, deposited or used in any such vending machine, coin-box, depository box or other receptacle, shall be deemed guilty of a felony, and upon conviction thereof shall be fined not more than 500 dollars or imprisoned in the state prison for not more than 5 years or both.

**History:** 1933, Act 148, Eff. Oct. 17, 1933;—CL 1948, 752.802.

**752.803 Construction of act.**

Sec. 3. This act shall not be construed to repeal by implication or otherwise any existing law in relation to any of the subject matter hereof.

**History:** 1933, Act 148, Eff. Oct. 17, 1933;—CL 1948, 752.803.

**COIN OPERATED DEVICES**  
**Act 126 of 1970**

AN ACT relating to coin operated devices, including but not limited to parking meters, coin telephones and vending machines; and providing for a penalty.

**History:** 1970, Act 126, Imd. Eff. Jan. 1, 1971.

*The People of the State of Michigan enact:*

**752.811 Coin operated devices; breaking and entering or possession of keys, penalty.**

Sec. 1. A person shall be guilty of a felony punishable upon conviction by confinement in the state prison for a period not to exceed 3 years or by a fine of not more than \$1,000.00 or both if he does either of the following:

(a) Enters or forces an entrance, alters or inserts any part of an instrument into any parking meter, vending machine dispensing goods or services, money changer or any other device designed to receive currency or coins with the intent to steal.

(b) Knowingly possesses a key or device, or a drawing, print or mold thereof, adapted and designed to open or break into any such machine with intent to steal money or other contents from it.

**History:** 1970, Act 126, Imd. Eff. Jan. 1, 1971.

**752.812 Effective date of act.**

Sec. 2. This act shall take effect January 1, 1971.

**History:** 1970, Act 126, Imd. Eff. Jan. 1, 1971.

**ERECTION OF POSTERS, SIGNS, PLACARDS, OR OTHER NOTICES**  
**Act 105 of 1951**

AN ACT regulating the erection of posters, signs and placards on any state, public or privately owned lands; and to prescribe penalties for violations of this act.

**History:** 1951, Act 105, Eff. Sept. 28, 1951.

*The People of the State of Michigan enact:*

**752.821 Erection of posters on state, public or private lands without permission unlawful.**

Sec. 1. No person shall erect any poster, sign, placard or other form of notice on any state, public or privately owned lands to prohibit hunting, fishing or trespassing thereon without the written permission of the owner or lessee thereof.

**History:** 1951, Act 105, Eff. Sept. 28, 1951.

**752.822 Prosecutions.**

Sec. 2. All prosecutions under this act shall be in the name of the people of the state of Michigan, and shall be brought before the district or municipal court of the judicial district or municipality in which the offense was committed, and within 1 year from the time the offense charged was committed.

**History:** 1951, Act 105, Eff. Sept. 28, 1951;—Am. 1991, Act 154, Imd. Eff. Nov. 25, 1991.

**752.823 Duties of prosecuting attorney.**

Sec. 3. It shall be the duty of all prosecuting attorneys of this state in their respective counties to see that the provisions hereof are enforced and to prosecute all persons charged with violating the provisions hereof; but prosecutions on the complaint of any such owner, lessee, or agent may be made without complaint, permit, or consent of the prosecuting attorney.

**History:** 1951, Act 105, Eff. Sept. 28, 1951;—Am. 1991, Act 154, Imd. Eff. Nov. 25, 1991.

**752.824 Violations, penalty.**

Sec. 4. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be fined not less than \$10.00, nor more than \$50.00, and may be committed to the county jail until such fine and costs of the proceedings are paid, not exceeding 30 days; and for a second, or any subsequent conviction, he shall be punished by a fine of not exceeding \$100.00, and in addition thereto shall be imprisoned in the county jail for a period of not more than 30 days.

**History:** 1951, Act 105, Eff. Sept. 28, 1951.

**752.825 Resisting arrest.**

Sec. 5. It shall be unlawful for any person to resist or obstruct any officer or person empowered to make arrests under the provisions of this act.

**History:** 1951, Act 105, Eff. Sept. 28, 1951.

## **DEATH OR INJURIES FROM FIREARMS**

### **Act 10 of 1952**

AN ACT to define the duties of any person who discharges a firearm and thereby injures any person; and to prescribe penalties for violations of the provisions of this act.

**History:** 1952, Act 10, Eff. Sept. 18, 1952.

*The People of the State of Michigan enact:*

#### **752.841 Firearms; definition.**

Sec. 1. For the purposes of this act the word “firearm” shall mean any weapon or device from which is propelled any missile, projectile, bullet, shot, pellet or other mass by means of explosives, compressed air or gas, or by means of springs, levers or other mechanical device.

**History:** 1952, Act 10, Eff. Sept. 18, 1952.

#### **752.842 Firearms; discharging; injuries.**

Sec. 2. Any person who discharges a firearm and thereby injures or fatally wounds another person, or has reason to believe he has injured or fatally wounded another person, shall immediately stop at the scene and shall give his name and address to the injured person, or any member of his party, and shall render to the person so injured immediate assistance and reasonable assistance in securing medical and hospital care and transportation for such injured person.

**History:** 1952, Act 10, Eff. Sept. 18, 1952.

#### **752.843 Firearms; report of injury or death.**

Sec. 3. Every person who shall have caused or been involved in an accident in which a human being was killed or injured by means of a firearm, shall, in addition to complying with the provisions of section 2 of this act, immediately thereafter report such injury or death to the nearest office of the state police, or to the sheriff of the county wherein the death or injury occurred, unless such person be physically incapable of making the required report, in which event it shall be the duty of such person or persons to designate an agent to file the report. It shall be the duty of the sheriff, upon receipt of the report herein required, to transmit the same forthwith to the nearest office of the state police.

**History:** 1952, Act 10, Eff. Sept. 18, 1952.

#### **752.844 Reports; availability for use.**

Sec. 4. Reports required to be filed under the provisions of this act shall not be available for use in any way in any court action, civil or criminal, and shall not be open to general public inspection, but shall be for the purpose of furnishing statistical information as to the number and cause of such accidents. This act shall be construed to supplement the law of this state with respect to evidence and its admissibility.

**History:** 1952, Act 10, Eff. Sept. 18, 1952.

#### **752.845 Firearms; injury to person, penalty, suspension of hunting privileges.**

Sec. 5. Any person violating any of the provisions of this act shall, upon conviction thereof, be fined not more than \$100.00 and costs of prosecution, or imprisonment in the county jail for not to exceed 90 days, or both such fine and imprisonment in the discretion of the court. In addition to any fine or imprisonment, the court may suspend the hunting privileges of such person for a period of not to exceed 3 years from the date of conviction.

**History:** 1952, Act 10, Eff. Sept. 18, 1952;—Am. 1958, Act 12, Eff. Sept. 13, 1958.

**CARELESS, RECKLESS, OR NEGLIGENT USE OF FIREARMS**  
**Act 45 of 1952**

AN ACT to prohibit the careless, reckless or negligent use of firearms and to provide penalties for the violation of this act; and to repeal certain acts and parts of acts.

**History:** 1952, Act 45, Eff. Sept. 18, 1952.

*The People of the State of Michigan enact:*

**752.861 Careless, reckless or negligent use of firearms; penalty.**

Sec. 1. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his immediate control, to be discharged so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

**History:** 1952, Act 45, Eff. Sept. 18, 1952.

**752.862 Careless, reckless or negligent use of firearms; injury of property; penalty.**

Sec. 2. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any firearm under his control to be discharged so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

**History:** 1952, Act 45, Eff. Sept. 18, 1952.

**752.863 Section repealed.**

Sec. 3. Section 235a of Act No. 328 of the Public Acts of 1931, being section 750.235a of the Compiled Laws of 1948, is hereby repealed.

**History:** 1952, Act 45, Eff. Sept. 18, 1952.

**752.863a Reckless, wanton use or negligent discharge of firearm; penalty.**

Sec. 3. Any person who shall recklessly or heedlessly or wilfully or wantonly use, carry, handle or discharge any firearm without due caution and circumspection for the rights, safety or property of others shall be guilty of a misdemeanor.

**History:** Add. 1955, Act 14, Eff. Oct. 14, 1955.

**Compiler's note:** Section 3, as added by Act 14 of 1955, was compiled as MCL 752.863[a] to distinguish it from another section 3, deriving from Act 45 of 1952 and pertaining to the repeal of MCL 750.235a. The compilation number formerly assigned to this section was MCL 752.a863.

**752.864 Firearms; injury to person or property, suspension of hunting privileges.**

Sec. 4. In addition to the penalties provided in other sections of this act, the court may suspend the hunting privileges of any person convicted of violating any provision of this act for a period of not to exceed 3 years from the date of conviction.

**History:** Add. 1958, Act 15, Eff. Sept. 13, 1958.

**CARELESS, RECKLESS, OR NEGLIGENT USE OF BOW AND ARROW**  
**Act 81 of 1954**

AN ACT to prohibit the careless, reckless or negligent use of bows and arrows; and to provide penalties for the violation of this act.

**History:** 1954, Act 81, Eff. Aug. 13, 1954.

*The People of the State of Michigan enact:*

**752.881 Careless, reckless or negligent use of bow and arrow; penalty.**

Sec. 1. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any bow or arrow under his immediate control, to be used so as to kill or injure another person, shall be guilty of a misdemeanor, punishable by imprisonment in the state prison for not more than 2 years, or by a fine of not more than \$2,000.00, or by imprisonment in the county jail for not more than 1 year, in the discretion of the court.

**History:** 1954, Act 81, Eff. Aug. 13, 1954.

**752.882 Property destruction, penalty.**

Sec. 2. Any person who, because of carelessness, recklessness or negligence, but not wilfully or wantonly, shall cause or allow any bow or arrow under his control to be used so as to destroy or injure the property of another, real or personal, shall be guilty of a misdemeanor, punishable by imprisonment in the county jail for not more than 90 days or by a fine of not more than \$100.00, if the injury to such property shall not exceed the sum of \$50.00, but in the event that such injury shall exceed the sum of \$50.00, then said offense shall be punishable by imprisonment in the county jail for not more than 1 year or by a fine not exceeding \$500.00.

**History:** 1954, Act 81, Eff. Aug. 13, 1954.

**752.883 Bow and arrow; injury to person, suspension of hunting privileges.**

Sec. 3. In addition to the penalties provided in sections 1 and 2, the court may suspend the hunting privileges of any person convicted of violating this act for a period of not to exceed 3 years from the date of conviction.

**History:** Add. 1958, Act 14, Eff. Sept. 13, 1958.



**SPRING, GAS, OR AIR OPERATED HANDGUNS**  
**Act 186 of 1959**

AN ACT to regulate the use of certain spring, gas or air operated handguns and to provide a penalty for violation of this act.

**History:** 1959, Act 186, Eff. Mar. 19, 1960.

*The People of the State of Michigan enact:*

**752.891 Use or possession of BB handgun by minor.**

Sec. 1. No person under 18 years of age shall use or possess any handgun designed and manufactured exclusively for propelling BB's not exceeding .177 calibre by means of spring, gas or air, outside the curtilage of his domicile unless he is accompanied by a person over 18 years of age.

**History:** 1959, Act 186, Eff. Mar. 19, 1960;—Am. 1972, Act 37, Imd. Eff. Feb. 19, 1972.

**752.892 Penalty.**

Sec. 2. Any person who violates the provisions of this act is guilty of a misdemeanor.

**History:** 1959, Act 186, Eff. Mar. 19, 1960.

**LITTERING**  
**Act 106 of 1963**

**752.901-752.906 Repealed. 1994, Act 451, Eff. Mar. 30, 1995.**

**THE HEALTH CARE FALSE CLAIM ACT**  
**Act 323 of 1984**

AN ACT to prohibit fraud in the obtaining of benefits or payments in connection with health care coverage and insurance; to prohibit kickbacks or bribes in connection with such coverage and insurance; to prohibit conspiracies in obtaining benefits or payments; to provide for certain powers and duties of certain state and local officers and agencies; to provide for and preclude certain civil actions; and to prescribe penalties.

**History:** 1984, Act 323, Eff. Mar. 29, 1985;—Am. 1996, Act 229, Imd. Eff. June 5, 1996.

*The People of the State of Michigan enact:*

**752.1001 Short title.**

Sec. 1. This act shall be known and may be cited as “the health care false claim act”.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

**752.1002 Definitions.**

Sec. 2. As used in this act:

(a) “Claim” means any attempt to cause a health care corporation or health care insurer to make the payment of a health care benefit.

(b) “Deceptive” means making a claim to a health care corporation or health care insurer which contains a statement of fact or which fails to reveal a material fact, which statement or failure leads the health care corporation or health care insurer to believe the represented or suggested state of affair to be other than it actually is.

(c) “False” means wholly or partially untrue or deceptive.

(d) “Health care benefit” means the right under a contract or a certificate or policy of insurance to have a payment made by a health care corporation or health care insurer for a specified health care service.

(e) “Health care corporation” means a nonprofit dental care corporation incorporated under Act No. 125 of the Public Acts of 1963, being sections 550.351 to 550.373 of the Michigan Compiled Laws; a hospital service corporation, medical care corporation, or a consolidated hospital service corporation and medical care corporation incorporated or reincorporated under Act No. 350 of the Public Acts of 1980, being sections 550.1101 to 550.1704 of the Michigan Compiled Laws, or incorporated or consolidated under Act No. 108 or 109 of the Public Acts of 1939; or a health maintenance organization licensed under Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

(f) “Health care insurer” means any insurance company authorized to provide health insurance in this state or any legal entity which is self-insured and providing health care benefits to its employees.

(g) “Health facility or agency” means a health facility or agency, as defined in section 20106 of the public health code, Act No. 368 of the Public Acts of 1978, being section 333.20106 of the Michigan Compiled Laws.

(h) “Knowing” and “knowingly” means that a person is in possession of facts under which he or she is aware or should be aware of the nature of his or her conduct and that his or her conduct is substantially certain to cause the payment of a health care benefit. “Knowing” or “knowingly” does not include conduct which is an error or mistake unless the person's course of conduct indicates a systematic or persistent tendency to cause inaccuracies to be present.

(i) “Person” means an individual, corporation, partnership, association, or any other legal entity.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

**752.1003 False claims, statements, or representations; violation as separate offense; liability of health facility or agency; concealing or failing to disclose certain events; violation of section as felony; penalty; section inapplicable to application for coverage.**

Sec. 3. (1) A person shall not make or present or cause to be made or presented to a health care corporation or health care insurer a claim for payment of health care benefits knowing the claim to be false.

(2) A person shall not make or present or cause to be made or presented to a health care corporation or health care insurer a claim for payment of health care benefits which he or she knows falsely represents that the goods or services were medically necessary in accordance with professionally accepted standards. Each claim which violates this subsection shall constitute a separate offense. A health facility or agency shall not be liable under this subsection unless the health facility or agency, pursuant to a conspiracy, combination, or collusion with a physician or other provider, falsely represents the medical necessity of the particular goods or services for which the claim was made.

(3) A person shall not knowingly make or cause to be made a false statement or false representation of a material fact to a health care corporation or health care insurer for use in determining rights to health care benefits. Each claim which violates this subsection shall constitute a separate violation.

(4) A person who, having knowledge of the occurrence of an event affecting his or her initial or continued right to receive a health care benefit, or the continued right of any other person on whose behalf he or she has applied for or is receiving a health care benefit, shall not conceal or fail to disclose that event with intent to obtain a health care benefit to which the person or any other person is not entitled, or to obtain a health care benefit in an amount greater than that to which the person or any other person is entitled.

(5) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 4 years, or by a fine of not more than \$50,000.00, or both.

(6) This section does not apply to statements made on an application for coverage under a certificate or policy of insurance issued by a health care insurer or coverage under a certificate issued by a health care corporation.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

#### **752.1004 Kickbacks, bribes, or rebates as felony; penalty.**

Sec. 4. A person who solicits, offers, pays, or receives a kickback or bribe in connection with the furnishing of goods or services for which payment is or may be made in whole or in part by a health care corporation or health care insurer, or who receives a rebate of a fee or charge for referring an individual to another person for the furnishing of health care benefits, is guilty of a felony, punishable by imprisonment for not more than 4 years, or by a fine of not more than \$50,000.00, or both.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

#### **752.1004a Rebate or discount from drug manufacturer; use; effect.**

Sec. 4a. (1) A rebate or discount from a drug manufacturer or from a company that licenses or distributes the drugs of a drug manufacturer to a consumer for that consumer's use of a drug manufactured or licensed or distributed by that drug manufacturer or company does not violate section 4.

(2) This section does not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

**History:** Add. 2004, Act 411, Imd. Eff. Nov. 29, 2004.

#### **752.1004b Rebate or discount from medical supply or device manufacturer; use; effect.**

Sec. 4b. (1) A rebate or discount from a medical supply or device manufacturer or from a company that licenses or distributes medical supplies or devices for a medical supply or device manufacturer to a consumer for that consumer's use of a medical supply or device manufactured or licensed or distributed by that manufacturer or company does not violate section 4.

(2) This section does not alter any copayment, deductible, coinsurance, or other cost-sharing requirements under a contract, certificate, or policy issued by a health care corporation or health care insurer.

**History:** Add. 2004, Act 410, Imd. Eff. Nov. 29, 2004.

#### **752.1005 Agreement, combination, or conspiracy to defraud as felony; penalty.**

Sec. 5. (1) A person shall not enter into an agreement, combination, or conspiracy to defraud a health care corporation or health care insurer by making or presenting, or aiding another to make or present a false claim for payment of health care benefits.

(2) A person who violates this section is guilty of a felony, punishable by imprisonment for not more than 10 years, or by a fine of not more than \$50,000.00, or both.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

#### **752.1006 Second or subsequent offense; penalty.**

Sec. 6. A person who is convicted of a second or subsequent offense under this act may be sentenced to imprisonment for a term of not more than twice the term otherwise authorized, or fined an amount not more than twice the amount otherwise authorized, or both.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

#### **752.1007 Evidence; rebuttable presumptions.**

Sec. 7. (1) In a prosecution under this act, it shall not be necessary to show that the person had knowledge of similar acts having been performed in the past by a person acting on the person's behalf, nor to show that the person had actual notice that the acts by the persons acting on the person's behalf occurred, to establish the fact that a false statement or representation was knowingly made.

(2) It shall be a rebuttable presumption that a person knowingly made a claim for a health care benefit if the person's actual, facsimile, stamped, typewritten, or similar signature is used on the form required for the making of the claim for the health care benefit.

(3) If a claim for a health care benefit is made by means of computer billing tapes or other electronic means, it shall be a rebuttable presumption that the person knowingly made the claim if the person has advised the health care corporation or health care insurer in writing that claims for health care benefits will be submitted by use of computer billing tapes or other electronic means.

(4) In any civil or criminal action under this act the certificate of an authorized agent of the health care corporation or health care insurer setting forth that documentary material or any compilation thereof is an authentic record or compilation of records of the health care corporation or health care insurer shall create a rebuttable presumption that the record or compilation is authentic.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

### **752.1008 Investigation; service and contents of written demands; action to enforce demand; serving notice of hearing and copy of pleadings; orders; confidentiality; duties of peace officers appointed as investigators.**

Sec. 8. (1) The attorney general, an assistant attorney general on behalf of the attorney general, or a prosecuting attorney may conduct an investigation of an alleged violation of this act.

(2) If the attorney general or a prosecuting attorney has reasonable cause to believe that a person has information or is in possession, custody, or control of any document or other tangible object relevant to an investigation for violation of this act, the attorney general or a prosecuting attorney, after notifying the attorney general, may serve upon the person, before bringing any criminal action, a written demand to appear and be examined under oath, and to produce the document or object for inspection and copying. The demand shall include all of the following:

(a) Be served upon the person in the manner required for service of process in this state.

(b) Describe the nature of the conduct constituting the violation under investigation.

(c) Describe the document or object with sufficient definiteness to permit it to be fairly identified.

(d) Contain a copy of any written interrogatories.

(e) Prescribe a reasonable time at which the person must appear to testify, within which to answer the written interrogatories, and within which the document or object must be produced, and advise the person that objections to or reasons for not complying with the demand may be filed with the attorney general or prosecuting attorney making the demand, on or before that time.

(f) Specify a place for the taking of testimony or for production and designate the person who shall be custodian of the document or object.

(g) Contain a copy of subsection (3).

(3) If a person objects to or otherwise fails to comply with the written demand served upon him or her under subsection (2), the attorney general or a prosecuting attorney, after notifying or at the request of the attorney general, may file in the circuit court of the county in which the person resides or in which the person maintains a principal place of business within this state an action to enforce the demand. Notice of hearing the action and a copy of all pleadings shall be served upon the person, who may appear in opposition. If the court finds that the demand is proper, that there is reasonable cause to believe that there may have been or is presently occurring a violation of this act, and that the information sought or document or object demanded is relevant to the investigation, the court shall order the person to comply with the demand, subject to modification the court may prescribe. Upon motion by the person and for good cause shown, the court may make any further order in the proceedings that justice requires to protect the person from unreasonable annoyance, embarrassment, oppression, burden, or expense.

(4) Except as required by federal law, any procedure, testimony taken, or material produced shall be kept confidential by the attorney general or a prosecuting attorney before bringing an action against a person under this act for the violation under investigation, unless confidentiality is waived by the person being investigated and the person who has testified, answered interrogatories, or produced material, or disclosure is authorized by the court.

(5) For purposes of enforcing this act, the attorney general may appoint investigators who shall be peace officers and whose duties include, but are not limited to, the following:

(a) To execute and serve search warrants, arrest warrants, subpoenas, administrative warrants, and summonses issued under the authority of the state.

(b) To seize property pursuant to the laws of this state.

(c) Investigators appointed by the attorney general may exercise the powers provided in this subsection when working in conjunction with local law enforcement agencies or the department of state police.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

**752.1008a Person not subject to civil liability.**

Sec. 8a. If acting in good faith, a person is not subject to civil liability for providing information, investigating, or cooperating with an investigation or examination under this act.

**History:** Add. 1996, Act 229, Imd. Eff. June 5, 1996.

**752.1009 Liability of person to health care corporation or health care insurer.**

Sec. 9. A person who receives a health care benefit or payment from a health care corporation or health care insurer which the person knows that he or she is not entitled to receive or be paid; or a person who knowingly presents or causes to be presented a claim which contains a false statement, shall be liable to the health care corporation or health care insurer for the full amount of the benefit or payment made.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

**752.1010 Restitution.**

Sec. 10. Any person convicted of a violation of section 3, 4, or 5, in addition to any fines or sentences imposed, including any order of probation, may be ordered to make restitution to a health care corporation or health care insurer.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

**752.1011 Prosecution or civil action for violation of other laws.**

Sec. 11. This act shall not be construed to prohibit or limit a prosecution of or civil action against a person for the violation of any other law of this state.

**History:** 1984, Act 323, Eff. Mar. 29, 1985.

## **ASSISTANCE TO SUICIDE**

### **Act 270 of 1992**

AN act to prohibit certain acts pertaining to the assistance of suicide; to provide for the development of legislative recommendations concerning certain issues related to death and dying, including assistance of suicide; to create the Michigan commission on death and dying; to prescribe its membership, powers, and duties; to prescribe penalties; and to repeal certain parts of this act on a specific date.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

*The People of the State of Michigan enact:*

#### **752.1021 Legislative findings; effective date of section.**

Sec. 1. (1) The legislature finds that the voluntary self-termination of human life, with or without assistance, raises serious ethical and public health questions in the state. To study this problem and to develop recommendations for legislation, the Michigan commission on death and dying is created.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

#### **752.1022 Definitions; effective date of section.**

Sec. 2. (1) As used in this act:

(a) “Commission” means the Michigan commission on death and dying created in section 3.

(b) “Legislative council” means the legislative council established under section 15 of article IV of the state constitution of 1963.

(c) “Licensed health care professional” means any of the following:

(i) A physician or physician's assistant licensed or authorized to practice under part 170 or 175 of the public health code, being sections 333.17001 to 333.17088 and 333.17501 to 333.17556 of the Michigan Compiled Laws.

(ii) A registered nurse or licensed practical nurse licensed or authorized to practice under part 172 of the public health code, being sections 333.17201 to 333.17242 of the Michigan Compiled Laws.

(iii) A pharmacist licensed under part 177 of the public health code, being sections 333.17701 to 333.17770 of the Michigan Compiled Laws.

(d) “Patient” means a person who engages in an act of voluntary self-termination.

(e) “Public health code” means Act No. 368 of the Public Acts of 1978, being sections 333.1101 to 333.25211 of the Michigan Compiled Laws.

(f) “The voluntary self-termination of life”, “voluntary self-termination”, and “self-termination” mean conduct by which a person expresses the specific intent to end, and attempts to cause the end of, his or her life, but do not include the administration of medication or medical treatment intended by a person to relieve his or her pain or discomfort, unless that administration is also independently and specifically intended by the person to cause the end of his or her life.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

#### **752.1023 Michigan commission on death and dying; creation; nomination and appointment of members; alternates; quorum; rules governing proceedings; notice; deliberations; death or resignation of member; effective date of section.**

Sec. 3. (1) The Michigan commission on death and dying is created within the legislative council. In accordance with its own rules and procedures, each of the following may nominate 2 persons for appointment to the commission:

(a) American association of retired persons.

(b) American civil liberties union of Michigan.

(c) Citizens for better care.

(d) Health care association of Michigan.

(e) Hemlock of Michigan.

(f) Michigan association for retarded citizens.

(g) Michigan association of osteopathic physicians and surgeons.

(h) Michigan association of suicidology.

(i) Michigan council on independent living.

- (j) Michigan head injury survivor's council.
- (k) Michigan hospice organization.
- (l) Michigan hospital association.
- (m) Michigan nonprofit homes association.
- (n) Michigan nurses association.
- (o) Michigan psychiatric society.
- (p) Michigan psychological association.
- (q) Michigan senior advocates council.
- (r) Michigan state medical society.
- (s) National association of social workers, Michigan division.
- (t) Right to life of Michigan, inc.
- (u) State bar of Michigan.
- (v) Prosecuting attorneys association of Michigan.

(2) Within 30 days after receiving notice of the nominations of an organization listed in subsection (1), the chairperson and alternate chairperson of the legislative council shall select from the nominees of that organization a member and a person to serve as that member's alternate on the commission.

(3) A majority of commission members appointed constitute a quorum.

(4) The commission shall convene its first meeting within 90 days after the effective date of this act, at which the members shall elect from members of the commission a chairperson, vice-chairperson, and secretary. The commission shall establish rules governing commission proceedings. These rules shall provide alternate members with full rights of participation, other than voting, in all commission proceedings.

(5) Following its first meeting, the commission shall meet as often as necessary to fulfill its duties under this act. Either the chairperson or a majority of the appointed members may call a meeting upon 7 days' written notice to the commission members.

(6) In its deliberations, the commission shall provide for substantial involvement from the academic, health care, legal, and religious communities, as well as from members of the general public.

(7) Upon the death or resignation of a commission member, the person serving as his or her alternate shall succeed that member. If a member of the commission is absent from a commission meeting, the person serving as his or her alternate shall act as a member of the commission at that meeting.

(8) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

## **752.1024 Development and submission of recommendations to legislature; effective date of section.**

Sec. 4. (1) Within 15 months after the effective date of this act, the commission shall develop and submit to the legislature recommendations as to legislation concerning the voluntary self-termination of life. In developing these recommendations, the commission shall consider each of the following:

(a) Current data concerning voluntary self-termination, including each of the following:

(i) The current self-termination rate in the state, compared with historical levels.

(ii) The causes of voluntary self-termination, and in particular each of the following:

(A) The role of alcohol and other drugs.

(B) The role of age, disease, and disability.

(iii) Past and current Michigan law concerning voluntary self-termination, including the status of persons who assist a patient's self-termination, and in particular the effect of any relevant law enacted during the 86th Legislature.

(iv) The laws of other states concerning voluntary self-termination, and in particular the effect of those laws on the rate of self-termination.

(b) The proper aims of legislation affecting voluntary self-termination, including each of the following:

(i) The existence of a societal consensus in the state on the morality of the voluntary self-termination of life, including the morality of other persons assisting a patient's self-termination.

(ii) The significance of each of the following:

(A) The attitudes of a patient's family regarding his or her voluntary self-termination.

(B) The cause of a patient's act of self-termination, including apprehension or existence of physical pain, disease, or disability.

(iii) Whether to differentiate among the following causes of voluntary self-termination:

(A) Physical conditions, as distinguished from psychological conditions.

(B) Physical conditions that will inevitably cause death, as distinguished from physical conditions with which a patient may survive indefinitely.



(C) Withdrawing or withholding medical treatment, as distinguished from administering medication, if both are in furtherance of a process of voluntary self-termination.

(iv) With respect to how the law should treat a person who assists a patient's voluntary self-termination, whether to differentiate based on the following:

(A) The nature of the assistance, including inaction; noncausal facilitation; information transmission; encouragement; providing the physical means of self-termination; active participation without immediate risk to the person assisting; and active participation that incurs immediate risk to the person assisting, such as suicide pacts.

(B) The motive of the person assisting, including compassion, fear for his or her own safety, and fear for the safety of the patient.

(C) The patient's awareness of his or her true condition, including the possibility of mistake or deception.

(v) The relevance of each of the following:

(A) The legal status of suicide.

(B) The legal status of living wills.

(C) The right to execute a durable power of attorney for health care, as provided in section 496 of the revised probate code, Act No. 642 of the Public Acts of 1978, being section 700.496 of the Michigan Compiled Laws.

(D) The common-law right of a competent adult to refuse medical care or treatment.

(E) Constitutional rights of free speech, free exercise of religion, and privacy, and constitutional prohibitions on the establishment of religion.

(c) The most efficient method of preventing voluntary self-terminations, to the extent prevention is a proper aim of legislation. In particular, the commission shall consider each of the following:

(i) The costs of various methods of preventing voluntary self-terminations, including the use of any of the following:

(A) Public health measures, such as crisis therapy and suicide counseling services.

(B) Tort law.

(C) Criminal law, including the desirability of criminalizing suicide or attempted suicide.

(D) Civil sanctions, including the denial of inheritance and requirements of community service and mandatory counseling.

(ii) The likely effect of any of the methods listed in subparagraph (i) on the self-termination rate, and in particular the probability that a particular method might cause the self-termination rate to increase.

(iii) The impact of any of the methods listed in subparagraph (i) on the practice of medicine and the availability of health care in the state.

(iv) Whether current state law is adequate to address the question of voluntary self-termination in the state.

(d) Appropriate guidelines and safeguards regarding voluntary self-terminations the law should allow, including the advisability of allowing, in limited cases, the administering of medication in furtherance of a process of voluntary self-termination.

(e) Any other factors the commission considers necessary in developing recommendations for legislation concerning the voluntary self-termination of life.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

#### **752.1025 Conducting business of commission; effective date of section.**

Sec. 5. (1) The business of the commission shall be conducted in compliance with the open meetings act, Act No. 267 of the Public Acts of 1976, being sections 15.261 to 15.275 of the Michigan Compiled Laws.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

#### **752.1026 Availability of writings to the public; effective date of section.**

Sec. 6. (1) A writing prepared, owned, used, in the possession of, or retained by the commission in the performance of an official function shall be made available to the public in compliance with the freedom of information act, Act No. 442 of the Public Acts of 1976, being sections 15.231 to 15.246 of the Michigan Compiled Laws.

(2) This section shall take effect February 25, 1993.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

**\*\*\*\*\* 752.1027 THIS SECTION IS REPEALED EFFECTIVE 6 MONTHS AFTER THE DATE THE COMMISSION MAKES ITS RECOMMENDATIONS TO THE LEGISLATURE PURSUANT TO SECTION 4:**



See (5) of 752.1027 \*\*\*\*\*

**752.1027 Prohibited acts; violation; penalties; applicability of subsection (1); exceptions; effective date of section; repeal of section.**

Sec. 7. (1) A person who has knowledge that another person intends to commit or attempt to commit suicide and who intentionally does either of the following is guilty of criminal assistance to suicide, a felony punishable by imprisonment for not more than 4 years or by a fine of not more than \$2,000.00, or both:

(a) Provides the physical means by which the other person attempts or commits suicide.

(b) Participates in a physical act by which the other person attempts or commits suicide.

(2) Subsection (1) shall not apply to withholding or withdrawing medical treatment.

(3) Subsection (1) does not apply to prescribing, dispensing, or administering medications or procedures if the intent is to relieve pain or discomfort and not to cause death, even if the medication or procedure may hasten or increase the risk of death.

(4) This section shall take effect February 25, 1993.

(5) This section is repealed effective 6 months after the date the commission makes its recommendations to the legislature pursuant to section 4.

**History:** 1992, Act 270, Eff. Mar. 31, 1993;—Am. 1993, Act 3, Imd. Eff. Feb. 25, 1993.

**Constitutionality:** In a memorandum opinion, the Michigan Supreme Court held that 1) the assisted suicide provisions of § 752.1027 of the Michigan Compiled Laws were validly enacted and do not violate the Title-Object Clause of the Michigan Constitution, and 2) the U.S. Constitution does not prohibit a state from imposing criminal penalties for assisting a suicide. *Michigan v Kevorkian*, 445 Mich 917, 521 N.W.2d 4 (1994).

## UNAUTHORIZED RECORDINGS

### Act 210 of 1994

AN ACT to prohibit the unauthorized duplication of certain recordings; to prohibit the sale, rental, distribution, transportation, and possession of these recordings; to require certain labeling; and to prescribe penalties and remedies.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

*The People of the State of Michigan enact:*

#### **752.1051 Definitions.**

Sec. 1. As used in this act:

(a) "Owner" means a person who owns the sounds fixed in a master recording on which sound is recorded and from which the transferred sounds are directly or indirectly derived, or the person who owns the rights to record or authorize the recording of a live performance.

(b) "Person" means an individual, partnership, corporation, association, limited liability company, or other legal entity.

(c) "Recording" means the tangible medium upon which sounds or images are recorded or otherwise stored. Recording includes any original phonograph record, disc, wire, tape, audio or video cassette, film, or other medium now known or later developed on which sounds or images are or can be recorded or otherwise stored, or any copy or reproduction that duplicates, in whole or in part, the original.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

#### **752.1052 Prohibited conduct; applicability of subsection (1)(a) and (b).**

Sec. 2. (1) A person shall not directly or indirectly do any of the following:

(a) Transfer a live performance onto a recording without the consent of the owner for commercial advantage or private financial gain.

(b) Transfer the sounds on a recording onto another recording without the consent of the owner for commercial advantage or private financial gain. This subdivision does not apply to either of the following:

(i) A sound recording initially fixed after February 15, 1972.

(ii) A person engaged in radio or television broadcasting or cablecasting who transfers or causes to be transferred sounds intended for, or in connection with, a broadcast or cable transmission or related use.

(c) Sell, rent, distribute, transport, or possess for the purpose of selling, renting, distributing, or transporting, or any combination thereof, a recording with knowledge that the recording was manufactured in violation of subdivision (a) or (b).

(d) Sell, rent, distribute, transport, or possess for the purpose of selling, renting, distributing, or transporting, or any combination thereof, a recording with knowledge that the recording is in violation of section 3.

(2) Subsection (1)(a) and (b) shall not apply to recordings that are transferred solely for the personal use of the person transferring the recording and the person does not derive any compensation from the transfer.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

#### **752.1053 Name and address of manufacturer; "manufacturer" defined.**

Sec. 3. Each recording sold, rented, or distributed, or possessed for the purpose of sale, rental, or distribution, shall contain in a prominent place on its cover, box, jacket, or label the true name and address of the manufacturer. As used in this section, "manufacturer" does not include the manufacturer of the cartridge or casing.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

#### **752.1054 Violation as misdemeanor or felony; penalties.**

Sec. 4. (1) A person who violates this act by committing an offense involving less than 7 audiovisual recordings or less than 100 sound recordings during a 180-day period is guilty of a misdemeanor, punishable by imprisonment for not more than 1 year, or a fine of not more than \$25,000.00, or both.

(2) A person who violates this act by committing a subsequent offense or an offense involving 7 or more audiovisual recordings or 100 or more sound recordings during a 180-day period is guilty of a felony, punishable by imprisonment for not more than 5 years, or a fine of not more than \$250,000.00, or both.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

**752.1055 Order to destroy recordings.**

Sec. 5. If a person is convicted of an offense under this act, the court shall order all recordings on which the conviction is based to be destroyed.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

**752.1056 Forfeiture.**

Sec. 6. All recordings and equipment used or attempted to be used in the manufacture of the recordings are subject to forfeiture in the same manner as provided in sections 4701 to 4709 of the revised judicature act of 1961, Act No. 236 of the Public Acts of 1961, being sections 600.4701 to 600.4709 of the Michigan Compiled Laws, except that the court shall order the following:

(a) That all recordings forfeited be destroyed.

(b) That any equipment forfeited be offered at no cost to a public elementary or secondary school, an institution of higher education, or a library.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

**752.1057 Effective date.**

Sec. 7. This act shall take effect January 1, 1995.

**History:** 1994, Act 210, Eff. Jan. 1, 1995.

**MICHIGAN CHILDREN'S PROTECTION REGISTRY ACT**  
**Act 241 of 2004**

AN ACT to establish the computer crime of sending certain electronic messages to minors; to create a child protection registry; to provide notice of contact points to which a minor has access; to prescribe the powers and duties of certain state agencies and officials; to create a fund and provide for fees; and to provide for penalties and remedies.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004.

*The People of the State of Michigan enact:*

**752.1061 Short title; legislative intent.**

Sec. 1. (1) This act shall be known and may be cited as the "Michigan children's protection registry act".

(2) The intent of this act is to provide safeguards to prevent certain messages regarding tobacco, alcohol, pornography, gambling, illegal drugs, and other illegal products from reaching the minor children of this state.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004;—Am. 2005, Act 298, Imd. Eff. Dec. 21, 2005.

**752.1062 Definitions.**

Sec. 2. As used in this act:

(a) "Contact point" means any electronic identification to which messages can be sent, including any of the following:

(i) An instant message identity.

(ii) A wireless telephone, a personal digital assistant, a pager number, or any other similar wireless communication device.

(iii) A facsimile number.

(iv) An electronic mail address.

(v) Other electronic addresses subject to rules promulgated under this act by the department.

(b) "Department" means the department of labor and economic growth.

(c) "Internet domain name" means a globally unique, hierarchical reference to an internet host or service, assigned through centralized internet authorities, comprising a series of character strings separated by periods, with the right-most string specifying the top of the hierarchy.

(d) "Minor" means an individual under the age of 18 years.

(e) "Person" means an individual, corporation, association, partnership, or any other legal entity.

(f) "Registry" means the child protection registry created under section 3.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004.

**752.1063 Child protection registry; establishment and operation; registration of contact points; duration; expiration; revocation; renewal; registration by schools and other institutions serving minor children; compliance mechanism; fees; operational date.**

Sec. 3. (1) The department shall establish and operate, or contract with a qualified third party to establish and operate, the child protection registry. The department or a third party administrator shall establish procedures, to the extent possible, to prevent the use or disclosure of protected contact points as required under section 6. If the department elects to contract with a third party, the department shall give due consideration to any person located in this state.

(2) A parent, guardian, individual, or an entity under subsection (4) who is responsible for a contact point to which a minor may have access may register that contact point with the department under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. The department shall establish procedures to ensure that a registrant meets the requirements of this subsection.

(3) A registration under this section shall be for not more than 3 years. If the contact point is established for a specific minor, the registration expires the year the minor turns 18 years of age. A registration can be revoked or renewed by the registrant upon notification to the department.

(4) Schools and other institutions or entities primarily serving minor children may register 1 or more contact points with the department. An entity under this subsection may make 1 registration for all contact points of the entity, and the registration may include the entity's internet domain name under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(5) No fee or charge shall be assessed or incurred by a person registering a contact point under this act.

(6) The department shall establish a mechanism for senders to verify compliance with the registry.

(7) A person desiring to send a message described in section 5 shall pay the department a fee for access to the mechanism required under subsection (6). The fee required under this subsection shall be set by the department. The fee shall not exceed 3 cents and shall be based on the number of contact points checked against the registry for each time a contact point is checked. The mechanism to verify compliance under subsection (6) and the fee required under this subsection shall be established under rules promulgated by the department under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328.

(8) The fees collected under this act shall be credited to the following:

(a) Eighty-five percent of the fees to the fund created under section 4.

(b) Not less than 15% of the fees to the attorney general to cover the costs of investigating, enforcing, and defending this act and section 5a of 1979 PA 53, MCL 752.795a. The department may reimburse the attorney general from the fund created under section 4 for any costs incurred under this subdivision that exceed the fees credited under this subdivision.

(9) The registry shall be fully operational not later than July 1, 2005.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004;—Am. 2005, Act 206, Imd. Eff. Nov. 14, 2005.

#### **752.1064 Children's protection registry fund; creation; expenditures; reversion to general fund.**

Sec. 4. (1) The children's protection registry fund is created as a separate fund in the state treasury and administered by the department. Money shall be deposited into the fund as required by section 3(8)(a).

(2) The department shall expend money from the fund only for the purposes of administering this act and for the investigation, enforcement, and defense of this act and section 5a of 1979 PA 53, MCL 752.795a.

(3) All money, including interest and earnings, in the fund at the end of the fiscal year shall remain in the fund and not revert to the general fund.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004.

#### **752.1065 Prohibited conduct; exceptions; third-party security audits.**

Sec. 5. (1) Except as otherwise provided under this section, a person shall not send, cause to be sent, or conspire with a third party to send a message to a contact point that has been registered for more than 30 calendar days with the department if the primary purpose of the message is to, directly or indirectly, advertise or otherwise link to a message that advertises a product or service that a minor is prohibited by law from purchasing, viewing, possessing, participating in, or otherwise receiving.

(2) A person desiring to send a message described in subsection (1) shall use the mechanism created under section 3(6) to ensure compliance with this act.

(3) The consent of a minor or third party to receive the message is not a defense to a violation of this section.

(4) A person does not violate this act because the person is an intermediary between the sender and recipient in the transmission of an electronic message that violates this act or unknowingly provides transmission of electronic messages over the person's computer network or facilities that violate this act.

(5) The sending of a message described in subsection (1) is prohibited only if it is otherwise a crime for the minor to purchase, view, possess, participate in, or otherwise receive the product or service.

(6) The sending of a message described in subsection (1) is not prohibited if prior to sending the message the sender has obtained from an age-verified adult an affirmative statement of consent to receive the message at an adult designated contact point. To comply with this subsection, the sender shall do all of the following:

(a) Verify that the person making the affirmative statement is of legal age by inspecting in a face-to-face transaction a valid government-issued photo identification with proof of age.

(b) Obtain a written record stating that the recipient has consented to receive the type of messages described in subsection (1). The consent form required under this subdivision shall be signed by the recipient. The sender shall retain the consent form required under this subdivision and make it available for verification as may be required under subdivision (d).

(c) All messages allowed under this subsection shall include notice to the recipient that he or she may rescind their consent and provide an opportunity for the recipient to opt out of receiving any future messages.

(d) Notify the department that the sender intends to send messages as allowed under this subsection. The department may implement procedures to verify that the sender is in compliance with this subsection.

(7) Within 90 days of the effective date of the amendatory act that added this subsection, the department, or the vendor providing registry services for the department, shall conduct a third-party audit to certify the security of the registry. Follow-up third-party security audits on the registry systems shall be conducted at least annually. If the third-party security audit determines that the registry does not meet or exceed the

industry standard for high security systems, then the registry shall be suspended until the security systems are determined to meet this standard.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004;—Am. 2005, Act 298, Imd. Eff. Dec. 21, 2005.

#### **752.1066 Release of information; prohibitions; register not subject to freedom of information act.**

Sec. 6. (1) A person shall not release to another person information concerning persons or provide access to contact points or other information contained on the registry except as provided by this act.

(2) A person shall not sell or use the registry for any reason other than to meet the requirements of this act.

(3) A person shall not access or attempt to access the registry except as provided by this act.

(4) The registry created under this act is not subject to the freedom of information act, 1976 PA 442, MCL 15.231 to 15.246.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004.

#### **752.1067 Violation of act; penalties.**

Sec. 7. A violation of this act is a computer crime and a violation of section 5a of 1979 PA 53, MCL 752.795a, subject to the penalties provided for under sections 6a and 6b of 1979 PA 53, MCL 752.796a and 752.796b.

**History:** 2004, Act 241, Imd. Eff. July 21, 2004.

#### **752.1068 Civil action; attorney fees; remedies; investigation of business transactions; effective date of section.**

Sec. 8. (1) A civil action based on the computer crime established under this act may be brought by an authorized individual or the registrant of the contact point on behalf of a minor who has received a message in violation of this act.

(2) A civil action based on the computer crime established under this act may be brought by a person through whose facilities the message was transmitted in violation of this act.

(3) A civil action based on the computer crime established under this act may be brought by the attorney general against a person who has violated this act.

(4) In each action brought under this section, the prevailing party may be awarded reasonable attorney fees if the action is found by the court to be frivolous.

(5) A person bringing an action under this section may recover 1 of the following:

(a) Actual damages, including reasonable attorney fees.

(b) In lieu of actual damages, recover the lesser of the following:

(i) \$5,000.00 per each message received by a recipient or transmitted.

(ii) \$250,000.00 for each day that the violation occurs.

(6) If the attorney general has reason to believe that a person has violated this act, the attorney general may investigate the business transactions of that person. The attorney general may require that person to appear, at a reasonable time and place, to give information under oath and to produce such documents and evidence necessary to determine whether the person is in compliance with the requirements of this act.

(7) Any civil penalties collected by the attorney general under this section shall be credited to the attorney general for the costs of investigating, enforcing, and defending this act and section 5a of 1979 PA 53, MCL 752.795a.

(8) This section takes effect July 1, 2005.

**History:** 2004, Act 241, Eff. July 1, 2005.